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THE MEXICAN REVOLUTION AND THE STANDARD OF LIVING

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In the heyday of the Diaz regime, a cross-section of Mexican society presented the following social stratifications:

An upper class made up of men of great wealth and large incomes living in a princely style, a style developed through the contact of Spanish grandezza with modern industrial inventions in comfort and luxury;

A bureaucratic class living with its eyes trained on the upper class, despising manual labor and always anxious to improve its position by legitimate or illegitimate means so as to be able to live in greater security and greater luxury;

A group of idealists, chiefly young men, who in the course of events expect to find their way into the bureaucracy, but in the meantime chafing, with the noble spiritedness of youth and illusion, against the restraints imposed by the nature of the Diaz dictatorship;

An upper middle class made up chiefly of foreigners, "Mexican foreigners," foreign-born business men and manufacturers, with a sprinkling of native Mexicans. With a

[1]For a short notice regarding the Second Annual Meeting of the Southwestern Political Science Association see infra p. 274.

very few exceptions, this class does not interest us here. In this class we may also include the clergy;

A rural population divided into two uneven groups, the first being the large mass of agricultural laborers, chiefly Indian and Mestizo, and the second, a small class of independent small farmers (rancheros), foremen and supervisors of the big estates, local political overseers and high and low class personal servants.

From the economic standpoint, the large landed aristocracy (hacendados), the mine-owners, the upper bureaucracy and the upper business class enjoyed incomes, or were able to command resources which enabled them to live in a style becoming their exalted position in the land. The rest of the bureaucracy lived in constant fear of a rainy day. The lower middle class barely made both ends meet. The city proletariat lived from hand to mouth. The ranchero lived in dread of the large landowner's machinations to deprive him of his land while he himself was constantly scheming how to deprive the Indian who happened to possess a patch of ground. The large mass of agricultural laborers were either managing to eke out a miserable existence by means of that very patch of ground with the additional labor on the land of the large landowner (peon eventual), or living under a modified serfdom (peon acasillado) on the land of the hacendado, fed on nothing but corn cakes spiced with chile, a semi-occasional allowance of beans, an occasional allowance of meat, but a reasonably steady flow of pulque.

This society was kept in peace for thirty years by the iron hand of Porfirio Diaz. Yet the very methods which kept the peace were also responsible for the breakdown of that peace. The methods were two, one employed by Diaz and one by Limantour. Diaz's method was a quick, direct, and immediately effective one. It consisted in using a devoted bureaucracy for the purpose of meting out death and destruction to any opposition whatsoever, in gagging the press and in otherwise effectively stifling any attempt at the expression of an independent opinion which might be interpreted as subversive of the existing order of things. Another form of the same method consisted in incorporating

the dissenter into the ranks of the beneficiaries of the existing regime and so swelling the size of the bureaucracy.

The second method employed by Diaz's chief advisers, the so-called exponents of science in politics (cientificos), whose captain was Limantour, Diaz's famous minister of finance, was a more roundabout method. It proceeded on the assumption that so far as the large mass of the Indian and Mestizo agricultural population was concerned nothing could be done, since by racial predispositions it is incapable of any higher culture and is destined to remain the semi-slave of the white man. Its lot can be ameliorated but never changed. Besides, the agricultural population never revolts unless it is led to by the city dwellers who begin the revolt. A Frenchman born in Mexico, soaked in French history and French culture, Limantour had before him the example of the home of his fathers: 1789, 1830, 1848, 1870 all pointed to the fact that peace is to be maintained by keeping the city masses contented, by giving them bread and the circus. His business was to supply bread and bread he thought to supply by inviting foreign capital under the most liberal and flattering terms to come and invest in Mexico's mineral riches. He would thereby create work for the city dwellers, he would also create a large and continually increasing income for the state through taxes and through import and export duties, all of which could be used to maintain the continually increasing army of bureaucrats made necessary by the system of Porfirio Diaz.

The two systems worked hand in hand. The first guaranteed the peace necessary for capital known traditionally to be timid; the second guaranteed the capital for the maintenance of that peace of suppression and incorporation. A working class that was cowed and afraid, a bureaucratic class standing under the cornucopia shower of the treasury and an upper class sharing with foreign capital the blessings of investments and dividends in mines and public utilities—why could not the peace be kept, and the *status quo* prolonged indefinitely?

It was because the keepers of the peace had not reckoned with the fact that Mexican ideals of life are European, or specifically, Spanish ideals of life; that a bureaucracy is

aristocratic in its ideals; that an aristocratic state living in an ostensibly democratic age must pretend to play the democratic game of education; that the rapid creation of great fortunes by means of modern commercial and industrial ventures also creates an unreasonable desire for such fortunes in improper quarters; and that finally these rapidly created fortunes also create a lessened respect for them, since they visualize dramatically to the common man the question of "How did he make it?" which question is ordinarily lost in the case of fortunes consisting of large landed estates transmitted down from forgotten days of antiquity.

European-Spanish ideals imply an extravagant contempt for manual labor and petty commercial enterprise, and an extravagant admiration for the position and paraphernalia of official and governmental life. They also imply a preference for a guaranteed income and the safety that goes with it, to the adventures of gaining one; the energy that goes into such adventures being preferably employed in the pursuit of other adventures imminent in a social life whose pleasures and amenities have made living a fine art. All Mexican classes, save the one which actually does the manual labor and the work of the community, hold manual labor and consequently the working class in utter contempt. It is inconceivable to any scion of the middle or bureaucratic class that there is anything else for him to do in life but to become a bureaucrat. He can not go into business because that also is tabooed, according to the standards of respectability of his class. Assuming that he were brave enough to overcome these, his family is ordinarily not possessed of the necessary investment capital to go into busiess, it being notorious that the bureaucratic class usually lives beyond its income. As to the numerous foreign enterprises on Mexican soil, here also there was little to hope for, because the foreigner usually preferred to employ his own compatriots, first, because he naturally preferred to do so, second, because they understood his business methods better, and the two could get along together with greater ease. In minor positions there was some opportunity for the natives, but these positions usually paid so poorly, as compared with even the poorly paid government positions, that

they held out no allurements to the budding bureaucrat. Besides, there were the elements of prestige. Any one who has had the slightest opportunity to come in contact with the atmosphere of deference, not to say flunkeyness, which characterizes any hierarchic bureaucracy, will realize the tremendous power of attraction which lies in occupying a position in the community where one is constantly the center of attention at public gatherings; where things are done and business dispatched by the standing and ranking of the man who sponsors the business; where servile respect and assiduous adulation are the lot of the one who happens at the time and place to be the chief officer in command. As over against this, the impersonal routine of a business office is apt to seem colorless and drab. In the last analysis, however, this bureaucratic mania (empleomania) is to be ascribed to the circumscribed field of occupational opportunities in a community where the land is in the hands of a few land holders, and the capital in the hands of foreigners and a handful of upper class bureaucrats.

But that was not enough. Education came in to complicate matters. By descent and affirmation, the Diaz regime was a "Liberal" regime. It presented itself before its own people, as before the world at large, in the garb of a democratic regime, where the president himself is called "citizen" and every other official down the line professes in public the same belief in liberty, fraternity, and equality. One of the consequences of this affirmation of liberalism and democracy was the establishing, at least for the sake of symmetry, of a system of education. Of far greater importance in originating this system of education, than the Platonic affirmations of democracy, was the necessity of impressing the world abroad. It is evident to anyone who looks into the doings of the Diaz regime that it was possessed with a passion for showing off. As over against the callousness of the American attitude towards opinions held about us by foreigners, the Mexican intellectual is pathologically sensitive to the opinion of the outsider. Being a community where eighty-five per cent of the population is steeped in the innocence of ignorance of education, and addicted to the primitive habits and customs of a poor and

primitive community, the intellectual and bureaucratic Mexican is feverishly eager to cover this up with a brave show that something is being done, that a great deal is being done to gain the esteem of a world theoretically yet tenaceously addicted to the democratic passion. And so the Diaz regime had to "go in" for education. Taking its example from France, this education appeared in the shape of a highly centralized system directed from above by men highly trained in the arts and philosophy of France of the last half of the nineteenth century. The French system was organized to serve the purpose of the central government, that is to train for bureaucracy. That it lead to such results in France is familiar. Transported to Mexico it worked true to form. Although it touched only a small percentage of the population, that is only the upper classes, it also touched a small number of the lower classes and it resulted in selecting, from that small percentage of the working population, those elements which had the native intelligence or skill or shrewdness to take to it. This group, although absolutely small, yet was relatively large enough to count in the long run in the assault on the budget. The son of the day-laborer who was infected with that education was immediately hailed as the hope of the family, and every effort was put forth to enable him to go on and ascend the steeper hills of a licenciado, or university graduate, with the hope that ultimately he would land among those who inherit the kingdom of the treasury. The net result of all this was to increase the ranks of the bureaucracy, but what also increased was the number of those outside who did not manage to get in. A government which had done so much was expected to do everything, and when the individual failed there was nothing simpler than to blame the government. And yet no other education would have been of any greater use; for what need does the serf have of education? And the son of a serf who has no other hope or outlook in life than to continue literally in the footsteps of his father can certainly find little of any worth in any sort of an education which can do nothing for him except to make him dissatisfied with his lot.

Within the ranks of the aristocracy and the bureaucracy

a similar phenomenon of dissatisfaction was taking place. The Mexican bureaucracy was far from being a group of satisfied holders-on like the petty bourgeoisie. The hierarchical peace which ordinarily reigns where social stratifications are rigid, received a terrible blow through the introduction of foreign capital. When foreign capital began the exploitation of Mexico's mineral resources it produced the complete demoralization of Mexico's bureaucracy from the standpoint of hierarchical peace. This phenomenon deserves a closer scrutiny.

A bureaucracy is primarily a body of consumers. As consumers its ideal of life is apt to be the ideal of the consuming class *par excellence*, namely, the leisure aristocratic class. Such a leisure aristocratic class, the transplanted Spanish aristocracy, has existed in Mexico for a long time. Its standard of living and expenditure was notoriously extravagant and absorbing. And yet, as compared with the standards of expenditure of today, those standards were quite meager. The reason for this is to be found in the sources of income of the Spanish, and all landed, aristocracy as compared with the sources of income of our modern business and industrial class. Incomes from land, and even primitively worked mines, are quite unimportant when compared with the income from industrial and financial enterprises. The introduction of foreign capital into Mexico suddenly created a group of very rich beneficiaries, partly native Mexicans, partly naturalized foreigners, who saw themselves the possessors of fortunes whose incomes and expenditures compared to the most extravagant hacendados, were such as to make the latter feel that they were being left behind in the race for respectability. If they were to keep their place in the group, particularly the younger generation, who, educated abroad, felt little of the love for the soil which the older generation felt, they had to strain every financial nerve to stand the pace set by these newly-rich bureaucrats. Two main lines of procedure followed. One was to make debts and mortgage the family property to such an extent that it soon passed out of their hands. Having arrived at the stage of genteel penuriousness, there was but one road open to them, and that was state service, which

meant an assault on the treasury and admittance into the fortified places of the bureaucracy. The second line of procedure was to increase their incomes by increasing their holdings. These holdings could only be increased at the expense of the holdings of some other man, and since this other man could not be one of their own kind, that is one just as strong as they were, it had to be a weaker man. The small farmer (ranchero), and the lands belonging to the Indians were fair game, and they proceeded to acquire them. In a community where the bureaucracy and the aristocracy work hand in hand, this was a simple and easy matter.

It is not known on what scale such a spoliation of the small farmer and the Indian went on, but there was enough of it to start a war with the Yaquis in Sonora, to turn Zapata into a hero, and to furnish a large contingent of dispossessed small farmers eager to get revenge; and yet perhaps, not enough to greatly benefit the large land owners in their fight to keep up with the new standards of respectable expenditures. This is seen in the fact that the Diaz regime reckoned with many and powerful enemies among the rich landed class. What made matters worse for the old aristocracy was that this newly rich bureaucracy was imbued with the standards of respectability of this same older aristocracy, standards which were based on landownership. To live up to them the newly-rich entered into the market as purchasers of estates which the old aristocracy could not hold, or could not acquire. The last comfort and element of visible satisfaction which the old had over the new was, therefore, gradually taken away from them.

As to the bureaucracy, the effect of the introduction of foreign capital worked in a more complicated but a similar fashion. The upper bureaucracy was the immediate beneficiary of this large scale investing. Either in the capacity of government officials or as that of legal advisers to foreign investing concerns, the upper bureaucrats found themselves in a strategic position. The earning of the investors ordinarily exceeding greatly what might be termed good profits, they could afford to pay for services which would

put them in a position to gain such profits or even better ones. In order to do that, they were willing to pay for services rendered, and the payment was not ungenerous, seeing that the returns were not ungenerous. True to the European-Spanish ideals of life, the beneficiaries of this new regime were not slow in letting the world know of their good fortune. Residences more akin to the palaces of the nobles of eighteenth century France than to the scions of a liberal democracy, which fought to keep out the splendor of an imperial nobility, made their appearance on the streets of Mexico City, and in the other residence centers of Mexico, as well as on the more remote haciendas. One can hardly appreciate the magnificence of these establishments until one sees them at close range. Together with that conspicuous magnificence, there also went the traditional Spanish arrogance towards the one below, the counterpart of servility to the one above. All the rest of the bureaucracy which might have tolerated all this display and contempt on the part of the old land-holding families could not be expected to tolerate it on the part of those who only a few years ago were known to be wearing out their sleeves on a desk. In addition, the upper bureaucracy tended to form a closed circle; entrance into which was not vouchsafed except to those who came highly recommended, or had the privilege of being kin to the generals in control. The constantly rising standard of expenditure of this upper bureaucracy made life increasingly hard for all the classes below it, because it made it increasingly harder to keep up one's self-respect. It appeared more and more evident to the rest of the bureaucracy that they were actually controlled by a financial-bureaucratic oligarchy, which was determined to keep everything for itself and its friends.

I wish to make it very clear that I do not intend it to be understood that this upper class bureaucracy consciously went to work to acquire all the economic control, and then exclude everyone from sharing in its benefits. Sociologists know well enough that group action is never of the type of consciously planned action. What I say simply amounts to the fact that when one is once in power it is the most natural thing to want to stay in power, and to allow admittance to

those only who mean something to those who are in power. Outsiders are kept out not because they are outsiders, but because they are not insiders. A consciously planned form of behavior would have done precisely the opposite, namely, divide the spoils among the "ins" and the "outs" on a reasonably fair basis, as is done, for example, in some South American or some Balkan countries where the bureaucracy is able to keep the social peace, and dominate in comfort. Not having done so, the Mexican upper bureaucracy was only adding more fuel to the already large pile by creating a large element of discontented and active lower bureaucrats and petty politicians. It is to be noted in this connection that the tendency of that financial oligarchy was to keep out precisely the younger, more restless, more able, and more enterprising elements, elements which could not be expected to do only the bidding of the older bureaucratic patriarchs, and were, therefore, apt, because of the recalcitrance of youth and ability, to be considered as disturbers and undesirables by these bureaucratic patriarchs.

If we observe now the effects of the same phenomenon upon the working population of Mexican society we find that they were of a similar nature. The introduction of foreign capital meant a great stimulus applied to industry, particularly mining, and the creation of a city working population. The peons engaged as mine workers enjoyed an income greater than the ones working upon the estates of the hacendado. The rate of pay for a day laborer in a mining state like Sonora, for example, is almost three times as much as that in the purely agricultural state of Mexico. Life was probably very much harder, but for purposes under discussion the point is that we see the creation of an elastic and gradually increasing standard of living among the lower classes, and we notice, for the first time perhaps in Mexican history, the break between the upper and the lower class in so far as standards of expenditure are concerned. It is certain now that the industrial and mining operator who has tasted of meat and wheat bread will not willingly go back to a diet of tortillas and chile as before.

The ranks of the city proletariat were greatly enlarged by the increase in the number of personal servants, who, in

Mexico form what one is justified in calling a distressingly large percentage of the population. This increase was due to the continual enlargement of the bounds of the bureaucrats, the business and investing classes. The lot of these personal servants was, speaking materially, very much better than the lot of the peon in the agricultural districts, and since both the industrial and mining operator and the personal servant originally from the rural district had more or less contact with the agricultural peon, the improvements in the lot of the former percolated to the agricultural laborers and tended along with certain other factors, of both a general and a special character, to increase the spirit of unrest there.

The factors of a general character were the generally miserable state of the rural population from days immemorial. The special factor was the further operation of this introduction of foreign capital and its consequences. Coincident with this was the change in the relationship between the land owner and the peon, from the earlier relationship of responsibility of the hacendado towards the peon, to one of payment in money for services received. At the same time the increase of population, with no marked improvement in the manner of production, made agricultural products scarce and high. It was, therefore, to the advantage of the land owner to pay in money rather than in kind as he was used to do before. The result was a tremendous increase in prices and cost of living for the articles of prime necessity. When he lived under the patriarchial form of a feudal land owner, the hacendado had always more than enough to supply all his wants, but when he moved to the city, and there had to compete with the man who made a fortune in a copper mine, or a concession, or the construction of a railroad, he lost sight of the peon on the hacienda, and his contact with the soil consisted in constantly urging his manager to send him more money this year than last. As far as the peon was concerned, all this meant that his life became harder while the lot of his city brother became easier, and he knew it. He ran away from the hacienda to the city as a worker, or to the United States as a laborer where he stayed long enough to save money and go back home to spend

it and then repeat the process again. All this tended to break down the already precarious equilibrium of the social organization of Mexico.

But the end was not yet. The introduction of foreign capital gave a tremendous impetus to banking operations of all kinds. Of course, banks made money much more plentiful than it ever was before. This benefited the people who had use for money for business or speculative purposes, but for the working population it simply resulted in an increase of prices and a further reduction in the purchasing power of wages, because in Mexico, as everywhere else, an increase in prices is not followed by a corresponding increase in wages. And so we see that whereas maize was reckoned at one peso 75 centavos an hectolitre in 1792 it sold for two pesos 50 centavos in 1891, and for four pesos 89 centavos in 1908. Frijol went up from 1,63 through 6,61 to 10,84. Chile from 26, through 27, to 57. Rice per hundred kilograms from 7,60 through 12,87 to 13,32.[1] It will be noticed that the greatest increases are seen around 1908, two years before the Revolution broke out.

And so the fates were gradually accumulating the fuel for the final conflagration. The spark was struck by the Idealists, by those who were high minded enough to refuse to be incorporated as the beneficiaries of a regime, which an education fostered by that same regime taught them to despise. The disaffected rancheroes, particularly of the two states where the landowners were few and their holdings were many, Chihuahua and Morelos, joined the Idealists. When they saw the tyrant shaking, the timid bureaucracy joined in. When the first aspect of the Revolution came to an end with the death of Madero, the landed aristocracy, under the name of a Catholic Party gained control later to be thrown over by the city proletariat, in what a brilliant Mexican writer called a "revolucion de gananes," "a revolution of day laborers." But the details of this process belong in a different place.

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[1]T. Esquivel Obregon, Influencia de Espana y los Estados Unidos sobre Mexico. Madrid, 1918. P. 340.

THE POLITICAL THEORIES OF ROGER B. TANEY

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Chief Justice Roger B. Taney had three principal political theories—curbing the rights of corporations, state rights, and slavery. Of these the most important was the defense of slavery especially during the later years of his life and activity on the bench.

State rights and slavery went hand in hand as a general rule but when state rights did not allow him to defend his favorite theory it was compelled to take second place. The state rights theory was used by Taney as it has been and is still used, as a means to defend some other doctrine and when its use was no longer helpful to the main cause it was dropped.

Just as John Marshall lived long after those who held similar political beliefs had lost their power so did Roger B. Taney. Taney's term as Chief Justice lasted until 1864 when his favorite doctrine was a thing of the past but we can consider that his real power as a justice of the Supreme Court ended with the election of Lincoln and the start of the Civil War. No longer did Taney take an active part in the work of the court. His decisions during the last few years of his life are very few and only one of them has the slightest connection with constitutional questions.[1] He doubtless felt that he was alone in a political sense as most of his friends were in arms against the authority of the government of which he occupied so prominent a part.

But in the early part of his career and in fact until the

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[1]This case was *ex parte* John Merryman in which Taney took occasion to declare that the President did not have the constitutional power to suspend the writ of habeas corpus in time of war. He maintained that Congress was given this power and then only under the conditions laid down. It might be mentioned that President Lincoln paid no attention to this decision and not only continued to consider the writ suspended but extended the scope of his order. Allen Johnson, *Readings in American Constitutional History*, p. 474.

election of Lincoln he played a most important role in the history of the nation. His decisions were many and important. His views were opposed to those of Marshall in many ways but he always managed to conceal the fact that many of the decisions of his distinguished predecessor were being overruled. In fact whenever possible he used quotations from some of Marshall's decisions to sustain some of his points. But there was no concealing the fact that his doctrines in regard to corporations and in regard to the relative powers of the national and state governments were unlike those of his predecessor.

Taney's attitude in regard to corporations was first and perhaps best expressed in the case of the Charles River Bridge Company vs. the Warren Bridge Company.[1] The United States constitution had forbidden states to pass laws which violated contracts. This provision had been given a very loose interpretation by Marshall in the Dartmouth College case[2] but it was due to receive a more strict construction by the new Chief Justice. Taney decided that vested rights were not contracts and that a state could pass laws which interfered with them. He contended that corporations should have only those rights which were expressly set forth in their charters and that no implied rights should be granted to them. His reasons were that if companies should be allowed to add to their rights by a loose construction of their charters there would be no limit to what some of them would claim. If this system was allowed to prevail the progress of the country would be retarded in order to make money for a few individuals and companies.[3]

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[1]11 Peters 420.

[2]Dartmouth College vs. Woodward, 4 Wheaton, 518.

[3]Taney says in this opinion, "While the rights of private property are sacredly guarded, we must not forget, that the community also have rights, and that the happiness and well being of every citizen depends on their faithful preservation. * * * The rule of construction before stated is an answer to the question: in charters of this description, no rights are taken from the public, or given to the corporation, beyond those which the words of the charter, by their natural and proper construction purport to convey." 548-549.

This decision was dissented from by Justice Story who regarded himself as the judicial heir of John Marshall. Story maintained that the way to build up the country was to encourage the men who had money so they would be sure that their investments were safe and that they would use their money in other ways to build up and develop the resources of the nation. But Taney's version was the one adopted by the courts and has endured during the years which followed.

This idea is found in many other decisions of Taney, the most prominent of which are the Bank of Augusta vs. Earle[1] and Perrine vs. the Chesapeake and Delaware Canal Company[2]. The former case will be referred to later in another connection but it included the point that the Bank of Augusta was not to be allowed to gain any rights by implication from its charter. This same principle is also the rule of the court in the case of the Ohio Life Insurance and Trust Company vs. Debolt.[3]

Though Andrew Jackson achieved the reputation of being a strong supporter of the rights of the national government because of his action in the South Carolina nullification dispute he was not always consistent in this regard and was known to follow a different policy on other occasions. He believed in maintaining the rights of the states and did not follow the lead of John Marshall in seeking to extend the powers of the national government by an elastic construction of the fundamental law.

It was for this reason that he appointed Taney to be Marshall's successor. Taney's views on this subject were well known and especially to Jackson in whose cabinet he had held the position of Attorney General and later Secretary of the Treasury. Taney's ideas on this subject had been expressed in his argument before the Supreme Court in the case of Brown vs. Maryland[4] which was argued before

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[1] 13 Peters 519.
[2] 9 Howard 172.
[3] 16 Howard 416.
[4] 12 Wheaton 419.

Marshall and in which Marshall had decided against the state of Maryland which Taney had represented.

Taney was a political friend and follower of "Old Hickory" and in addition was a young man, likely to hold the office for a long time. By this appointment Jackson was reasonably sure of having his ideas proclaimed from the supreme bench many years after he had retired from the Presidency.

Many of Taney's opinions are still the law in spite of the nationalizing influence of the Civil War. A constitutional amendment was passed to do away with certain opinions while a few others have been overruled by the court.

The case of Kentucky vs. Dennison[1] is a good example of the way in which the rights of the state were guarded against encroachment and it is also one in which Taney allowed slavery to take a secondary place. In the case of a man who had been indicted by the courts of Kentucky for the crime of inducing slaves to leave their masters, and who had fled to Ohio, Taney refused to order Dennison, the Governor of Ohio, to surrender the prisoner. He maintained that it was the moral duty of the Governor to do so and that Kentucky had a legal right to the criminal but he also said that the court had no power to coerce the states.[2]

The decision in this case is still the rule of the Supreme Court and has been followed in many cases since the days of Taney, a recent instance being that of the refusal of the Governor of Kansas to surrender a fugitive from Arkansas.

But while Taney was a strong upholder of the rights of the states he was also an able expounder of the Constitution

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[1]24 Howard 66.

[2]In summing up his decision Taney states the case thus: "Looking, therefore, to the words of the Constitution—to the obvious policy and necessity of this provision [the provision referred to is that which provides that fugitives from justice should be given up by states] to preserve harmony between states, and law and order within their respective borders, and to its early adoption by the colonies, and then by the Confederated States, whose mutual interest it was to give each other aid and support whenever it was needed—the conclusion is irresistible that this compact engrafted in the Constitution included, right to the Executive authority of the state to demand the fugitive

and refused to allow states to take rights which under the fundamental law were expressly given to the national government. A striking instance of this is his opinion in the case of Holmes vs. Jennison.[1] Holmes was a fugitive who had fled from Canada into the state of Vermont. The Vermont authorities were about to surrender him to the Canadian officers when an appeal to the United States Supreme Court halted the process.

Though the court made no decision on the question due to an equal division of the judges the opinion of Taney which was followed by Vermont, is interesting. He said that Vermont had an agreement, which was probably verbal, to surrender Holmes to Canada. This agreement was contrary to the federal Constitution as the right to deal with foreign countries was expressly given to the national government. If the Canadian authorities wanted to get possession of Holmes they should have applied to the federal government. Taney always held that if a power was given to the national government and not forbidden to the states the states had the right to exercise the power when it did not conflict with the federal laws. But in this case he maintained that the states were forbidden to have dealings with foreign countries except with the consent of the national government which in this case had not been asked or granted. He decided that only in cases where treaties which provided for extradition had been made with foreign countries could prisoners be surrendered. If this rule was not followed, said Taney, foreign nations could secure political prisoners when the policy of the United States had always been to protect such persons.

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from the Executive authority of the state in which he is found; that the right given to 'demand' implies that it is an absolute right; and it follows that here must be a correlative obligation to deliver, without any reference to the character of the crime charged, or to the policy or laws of the state to which he has fled. * * * But if the Governor of Ohio refuses to discharge this duty there is no power delegated to the general government, either through the judicial department or any other department, to use any coercive means to compel him. And upon this grounds the motion for a mandamus must be overruled." 103 and 109.

[1]14 Peters 540.

This doctrine has been followed since that time and treaties with foreign countries have been negotiated in which the crimes for which prisoners can be extradited are named and the exact proceedings are outlined. These treaties have been strictly construed by the courts in all cases.

Taney, however, as stated above, was in favor of allowing the states all the power that it was possible to confer upon them. According to him the states had not only all the powers not given expressly to the national government but also concurrent power on all matters which were not expressly forbidden to them. He also held that the states could and should pass laws which would assist in carrying out laws passed by congress.

The case of Prigg vs. Pennsylvania[1] concerned the returning of fugitive slaves to their masters and is an instance of his views on this question. The state of Pennsylvania had passed a law which defined as kidnapping an effort on the part of the owners of slaves or their agents to take slaves out of the state. The decision of the court was that the Pennsylvania statute was repugnant to the federal Constitution on the grounds that states had no right to pass laws on subjects on which congress had legislated.

Taney concurred in the decision in so far as the Pennsylvania law was concerned but maintained further that Pennsylvania could pass laws which would assist in the carrying out of the federal law. He said that the object of the fugitive slave laws was to make it as easy as possible for the slave owners to get their property and if the state could assist it was its duty to do so.[2]

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[1]16 Peters 539.

[2]In this case Taney's views on the concurrent powers of the states on subjects upon which Congress had legislated are illustrated. His disagreement with the majority of the court is shown in the following excerpt: "According to the opinion just rendered, the state authorities are prohibited from interfering for the purpose of protecting the master and aiding in the recovery of his property. I think that the states are not prohibited; and that, on the contrary, it is enjoined upon them to support and protect the owner when he is endeavoring to obtain possession of his property within their respective territories." 627.

Concerning the constitutionality of state laws in regard to state constitutions Taney always took the decisions of the state courts and refused to examine further. In the case of the Ohio Life Insurance and Trust Company vs. Debolt[1] this doctrine and the right of the states to pass any law not expressly forbidden by the federal Constitution are asserted.

The Ohio Life Insurance and Trust Company maintained that a tax levied by the state of Ohio on their capital stock was unconstitutional because it was a violation of the clause which forbids states to interfere with the operation of contracts. Taney decided that the states retained the full right of taxation and there was nothing clearly stated in the charter of the company exempting them from taxation. Hence the law was no violation of the federal Constitution. As for the claim that the law was a violation of the state constitution Taney settled that by saying that the Ohio supreme court had decided that point and the federal court accepted the decision.

Another case in which the state was favored above the individual is that of Den vs. the Jersey Company.[2] The Jersey Company claimed that the soil under rivers belonged to the individuals or corporations owning land along the banks. While this would not be important in ordinary cases it was in this instance where the river had changed its course and the land which it formerly occupied was drained. Taney held that this land belonged to the state and ownership of the land on the banks of a stream did not imply that such ownership included the land over which the stream flowed.

While Taney was a believer in state rights he did not allow that belief to weaken the power of the Supreme Court. He refused to surrender any of the judicial power which had been built up during the time of John Marshall. In the case of Burgess vs. Gray[3] a decision of a state court on the subject of the interpretation of treaties made by the

[1] 16 Howard 416.
[2] 15 Howard 426.
[3] 16 Howard 48.

United States was overruled on the grounds that state courts had no jurisdiction over such matters. The question was one which only the courts of the United States could decide.

But in the case of Robertson vs. Coulter[1] he declined to review the decisions of state courts in which the interpretation of the state constitution was involved. When the state court passed upon this subject it was final and could not be appealed to any higher court except when its relation with United States laws or constitution were involved.

One of the most extreme statements of Taney's state rights doctrine is found in the case of the Bank of Augusta vs. Earle.[2] The case involved the right of a company chartered in one state to collect bills of exchange in another. While Taney upholds the bank in its effort to collect he bases this right not upon the Constitution or laws of the United States but upon international law. He says that the states are sovereign and as the Constitution says nothing concerning this question the law of nations must apply. As rights of this kind were allowed between nations the bank was entitled to collect its bills of exchange.

The doctrine that any power which is not expressly forbidden to the states can be exercised by them even when it is given to the federal government is again stated in Taney's dissenting opinion in the case of Pennsylvania vs. the Wheeling Bridge Company[3] when he says that the unexercised rights of the federal government in regard to interstate commerce should be allowed to be exercised by the states if they want to use them.

Other statements of the sovereignty of a state and its right to control its relations with its citizens are found in

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[1]16 Howard 106.
[2]13 Peters 519.
[3]13 Howard 519.

the cases of Beers vs. Arkansas[1] and the Bank of Washington vs. Arkansas[2]. In the first of these cases Taney decided that a state could refuse to be sued in the courts of that state or any other state. The state could make any kind of rules for cases which it allowed and could change the rules at any time even while the suit was pending. The only exception was that the state laws could not violate a contract.

In the second of the cases named above the principle was further elaborated in the case of suits brought against a state to collect on bonds issued by a state. The court, with Taney rendering the opinion, decided that the bondholders had to depend upon the sense of justice possessed by the state for the payment and if the state decided that the bonds were not to be paid then the bondholders lost all they had invested as a state can not be sued without its consent and in this case Arkansas refused this permission.

In cases where a state directly violated the provisions of the Constitution and tried to take power which was expressly given to the national government and exercised by it Taney opposed the state's contention. This is illustrated in the case of Almy vs. California.[3] This state had levied a tax upon all bills of lading for the export of gold from the state. Almy claimed that this was really a tax upon the export of gold and for that reason repugnant to the federal Constitution which expressly forbids a tax upon exports. Taney upheld Almy's contention.

The attempt to stretch the constitutional provision forbidding states to pass laws which interfered with contracts so that it would apply to contracts made after the law was passed was checked by Taney in his decision in the case of Bronson vs. Kinsie.[4] In this decision he maintained that the state laws as they concerned contracts made previous to the passage of the law were void but in regard to contracts made after their passage the laws were valid.

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[1]20 Howard 527.
[2]20 Howard 530.
[3]65 U. S. 169.
[4]1 Howard 311.

His reason was that the makers of the contracts should take the new laws into consideration. The new laws became part of all contracts made after their passage.[1]

The concurrent power of the states in regard to matters over which the federal government had been given power by the Constitution when no prohibition was imposed upon the states is shown in the decision in the License Cases.[2] This doctrine was originated in the Supreme Court by John Marshall, in the case of Willson vs. The Black Bird Creek Marsh Company,[3] who said that when a power granted to the federal government was not exercised by it it could be exercised by the states if there was no express prohibition on them.

The License Cases concerned the power of the states to pass laws compelling sellers of intoxicating liquor to secure a license before such sales could be legally made. The dealers contended that the states were exercising power over interstate commerce as most of the liquor came from outside of the states in which it was sold. There were, however, two parts to the case, viz., concerning the liquor which was sold in the original packages and that sold after these packages had been broken.

In regard to the goods sold in the original packages Taney decided that if the federal government had passed any laws on this subject the states would not be allowed to pass laws which interfered with them but as no laws had been passed the states were entirely within their rights in requiring licenses.

The control of the sale of liquor not in the original packages was part of the police power of the states. The police power, according to Taney, is the power to make regulations which will protect the health, morals and safety of the people of the state. He said that the unrestricted sale

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[1]Cases of this kind had been decided previously by the Supreme Court. Probably the first case was that of Ogden vs. Saunders (12 Wheaton 213) in which John Marshall made his only dissenting opinion on a constitutional question.

[2]5 Howard 504.

[3]2 Peters 245.

of intoxicants could be an evil and that the state certainly possessed the right to curb this evil if it saw fit.[1] Taney cited two decisions of Marshall in proving his points, Willson vs. the Black Bird Creek Marsh Company[2] and Gibbons vs. Ogden.[3]

The opinions of Taney in regard to state rights and the rights of the national government are set forth in his dissenting opinion in the Passenger Cases.[4] The majority of the court decided that the laws of New York and those of Massachusetts imposing a tax upon alien passengers entering their ports were contrary to the federal Constitution because they undertook to control commerce with foreign countries.

The right to exclude undesirable aliens was retained by the states, said Taney, as the Constitution said nothing about denying this power to the states or giving it exclusively to the federal government. Congress had passed no law on this subject as he admitted it had a right to do. If Congress had acted then the state laws would be unconstitutional or if Congress acted after the state laws were passed then the state laws would be supplanted. But as long as the federal government took no action Taney maintained that the state laws were proper and constitutional.

No one denied that the states possessed the right to deal with foreigners after they were admitted within their borders even to the extent of expelling them. If this was

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[1]Taney in the License Cases said: "In other words whether a grant of power to Congress is of itself a prohibition to the states and renders all state laws on the subject null and void. * * * It appears to be clear that a mere grant of power to the general government cannot, upon any just principles of construction be construed to be an absolute prohibition to the exercise of any power over the same by the states. Yet, in my judgment, the state may make regulations for the safety and convenience of trade, or for the protection of the health of its cititzens, * * * and such regulations are valid unless they come in conflict with a law of Congress." 578ff.

[2]2 Peters 245.

[3]9 Wheaton 1.

[4]7 Howard 283.

the case then Taney was unable to understand why anyone would maintain that point of view without admitting that the states could prohibit them from entering.

The law passed by Massachusetts was for the purpose of eliminating paupers from among the aliens. This was to be accomplished by levying a small tax upon every alien entering her ports. The money thus derived was for the purpose of providing for aliens who became paupers. Taney maintained that the power of taxation was not surrendered by the state and therefore was still possessed by them. If the power of taxation was taken away from them the states would be helpless. The right of taxation was a fundamental one and the states never intended to give it up. Taney cited several decisions of Marshall to prove this point which he regarded as most important.

The contention of the majority of the court that persons were articles of commerce was also attacked by Taney. He said that this tax was not upon the tonnage of the vessels upon which the aliens came nor upon the captain of the ship even though he actually paid the money. The tax was proportionate to the number of aliens on the ship and was paid indirectly by them. The Federalist was quoted to prove that the framers of the Constitution and its early defenders did not consider persons articles of commerce. The decision in Gibbons vs. Ogden[1] was also cited.

The New York law was different in that it laid a small tax upon all passengers whether natives or aliens who entered her ports coming from a foreign country. Taney regarded this as an improvement over the old method of inspection for sanitary purposes. The same argument used in the Massachusetts case applied to this one and in addition the right of a state to levy a small tax for the purpose of inspection was recognized by the Supreme Court in the case of Cooley vs. the Board of Wardens.[2]

Taney argued that these laws had nothing to do with

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[1] 9 Wheaton 1.
[2] 12 Howard 299.

naturalization which was expressly granted to the national government by the Constitution but was simply an effort on the part of the states to protect themselves against undesirable persons entering and becoming a burden upon the states. The Chief Justice was much concerned about this decision as he regarded it as a step toward taking away rights which had been guaranteed to the states by the Constitution and previous decisions of the courts.

The doctrine of the concurrent powers of the state and national governments was again stated in the case of Cook vs. Moffat.[1] This case deals with the bankruptcy laws which had been passed by the state of Maryland and which were made to apply to property outside of the state which passed it. Taney concurred with the majority of the court that the law as it applied to persons on property outside of Maryland was unconstitutional but maintained that inside the state the law was valid.

States have the right to pass laws levying taxes on property bequeathed to aliens, said Taney in his decision in the case of Mager vs. Grima.[2] He based his decision on the construction of the Constitution which maintained that all power not granted to the national government nor prohibited to the states belonged to the states. He said that the tax levied by the state of Louisiana where this suit started was only ten per cent of the amount of the estate while some states took all the property. All such state laws were constitutional because they did not deal with commerce, exports or imports, and therefore the states had the right to pass them. Some states, said the Chief Justice, imposed similar taxes upon their own citizens as well as aliens and this class of laws was also within their rights.

The land within a state after its admission to the union is entirely under the control of the state, the court decided in the case of Doe vs. Beebe.[1] This case involved the right of the United States to grant land between the high and low

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[1] 5 Howard 295.
[2] 8 Howard 490.
[3] 3 Howard 26.

water marks on a river after the admission of the state. As the court had previously decided (Den vs. the Jersey Company) that the land under the river belonged to the state it was in line with that decision to decide that this land also belonged to the state.

The power of the Supreme Court in deciding questions which arose between states was discussed in the case of the state of Massachusetts vs. the state of Rhode Island.[1] The case had its origin in a boundary dispute but the point at issue was whether or not the court had a right to settle such questions. The majority of the court decided that when the state being sued made a voluntary appearance the court had such right. Taney dissented saying that this case concerned sovereignty over which the court had no jurisdiction. If the suit had been concerning title of land only then Taney admitted that the court could decide.

This case was withdrawn for a time but later Taney's view was overruled and the decision given in favor of Massachusetts.

While state rights was a subject in which Taney felt a deep interest there were limits to the length that even he would allow the states to go. When they attempted to interfere with United States laws in whose constitutionality he believed he suppressed them with a heavy hand. Especially laws passed by northern states or decisions of the courts of these states in the days just preceding the Civil War concerning fugitive salves or persons who assisted slaves to escape were not looked upon with approval.

The most important of these cases and the only ones in which Taney wrote the decisions were those of Ableman vs. Booth and the United States vs. Booth,[2] both cases being decided at the same time. Booth had been convicted in a federal court of assisting a slave to escape and had been confined in prison in the state of Wisconsin where he lived and where the crime had been committed. The supreme court of Wisconsin had discharged the prisoner from cus-

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[1] 12 Peters 657.
[2] 62 U. S. 506.

tody because that court had decided that the fugitive slave section of the Compromise of 1850 was unconstitutional. The Wisconsin court had also decided that its decision was final and paid no attention to the writ of error issued by the United States Supreme Court.

Taney was indignant over what he considered a usurpation on the part of the state court.[1] He emphasized the superiority of the decisions of the federal courts over those of the state courts in matters concerning national laws. He said that state courts cannot declare federal laws unconstitutional. If this was allowed then each state might have a different decision to carry out and this, Taney declared, would make the national government a burlesque.

Taney maintained that the fugitive slave section of the Compromise of 1850 was constitutional as it simply carried out in detail the sections of the federal Constitution which provided for the recovery of fugitive salves. He therefore reversed the decision of the Wisconsin court.

Efforts on the part of government officials to harass slave owners were regarded unfavorably by Taney. He considered slaves as property and any laws concerning property he maintained could be applied to slaves. The case of the United States vs. the ship Garonne[2] was the result of the effort of the government to interfere with slave owners taking their slaves abroad. A slave was taken to France by her mistress. On her return it was maintained by the

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[1]According to Chief Justice Taney "no state can authorize one of its judges or courts to exercise judicial power within the jurisdiction of another and independent government. Although the state of Wisconsin is sovereign within its territorial limits to a certain extent yet that sovereignity is limited and restricted by the Constitution of the United States. * * * No state judge or court after they have been judicially informed that the party is imprisoned under the authority of the United States has any right to interfere with him. * * * If there is any defect in the power of the commissioner of the United States or in his mode of proceeding it was for the tribunals of the United States to correct it not for a state court." 515ff.

[2]11 Peters 73.

government that she had violated the law relating to the importation of slaves.

The court, Taney speaking, decided that any property taken out of this country was not regarded as imported when it was returned and compelled to pay customs duties. Therefore slaves which the law regarded as property could not be charged with customs duties or prohibited from entering after a sojourn abroad.

Taney, however, did not allow his pro-slavery leanings to lead him into the defense of the African slave trade. The case of the United States vs. Morris[1] is one which displays his views on the subject. Morris was the captain of a ship bound for Africa with the intention of getting a cargo of slaves when he was captured by a warship. His defense was that he was not a slave trader until he had some slaves on board even though it was a proved fact that he was bound on such a purpose. Taney decided that Morris was just as guilty when he sailed for Africa as he would have been if he had been caught with a shipload of slaves.

The most important of all of Taney's decisions upon the country and upon the slavery question was that of Dred Scott vs. Sanford.[2] This was given in 1857 just after the inauguration of James Buchanan as President. Buchanan as a northern Democrat was anxious to have the slavery question settled as it was a subject which divided his party and which was likely to divide it hopelessly four years later. Buchanan evidently knew that this decision was to be made as he said in his inaugural address[3] that the Supreme Court was about to make a far reaching decision which would once and for all time settle this much mooted question. As is well known instead of settling the slavery issue the decision made it more prominent and bitter than ever.

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[1] 14 Peters 464.

[2] 19 Howard 393.

[3] Speaking on the subject of slavery in the territories of the United States President Buchanan in his inaugural address, March 4, 1857, said: "A difference of opinion has arisen as to the point of time when the people of a territory shall decide this question for themselves. This is, happily, a matter of but little practical importance.

All of the people who favored slavery were anxious to have the question settled but the anti-slavery party was convinced that nothing but the complete abolition of slavery would ever settle it. The idea that the nation could not exist permanently "half slave and half free" while stated by Lincoln at a slightly later time was in the minds of many persons at this time.

The case arose over Dred Scott, a negro slave owned by Dr. Emmerson, an army doctor, who at the time he purchased Scott lived in Missouri. Later he moved with his slave to Illinois and still later he moved to the Nebraska territory, where Scott married a negress and by her had several children while in Nebraska territory. Later they all moved back to Missouri where Dr. Emmerson sold the entire Scott Family to Sanford.

Scott then sued in a federal court for his and his family's freedom on the grounds that he had been taken to a free state, viz., Illinois, and that his family had been taken in a free territory, Nebraska, which was declared free by the Missouri Compromise. The lower court decided against Scott and an appeal was taken to the Supreme ourt.

On account of the importance of the case all of the members of the court wrote opinions, but Taney's was considered the opinion of the court. In the first place, Taney said that Scott was a negro and therefore not a citizen. For that reason he had no standing in the court and could not lawfully bring suit. He proved his point by citing the meaning of the "citizen" as stated by the framers of the Constitution and said that the meaning of that word must be that of the earlier days. In a previous case, however, that of Williams vs. Ash, he heard a case started by

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Besides, it is a judicial question, which legitimately belongs to the Supreme Court of the United States, before whom it is now pending, and will, it is understood be speedily and finally settled. To their decision, in common with all good citizens, I shall cheerfully submit." As Buchanan had received letters from Justices Grier and Catron telling him what the decision was to be he knew that he would be cheerful concerning it. *Works of James Buchanan*, Vol. X, pp. 106-8.

a negro. In the Dred Scott case he cited laws and decisions of courts in states which had since abolished slavery to prove that a negro was not a citizen and could not become one at any time or under any conditions.

The next question was whether or not Scott and his family gained their freedom because they had lived in territory made free by the Missouri Compromise. In regard to this point Taney held that the Constitution gave Congress no power to annex territory and even if this power had been gained the fundamental law gave it no absolute power over the territory annexed as in the case of the District of Columbia. Especially was no power given by which Congress could take away a man's property without due process of law. That slaves were considered to be property by the Constitution there was no doubt and the Constitution in plain words denied the power of Congress to take away property from anyone without the legal process being followed.

He therefore pronounced the Missouri Compromise unconstitutional and said that the territory which the United States had annexed was open to all citizens of the United States who could take with them any kind of property which included of course slaves if they owned them.

In regard to the claim of Scott that going to Illinois, a free state, made him free, Taney said the fact which counted was that the suit was brought in the state of Missouri where he was considered a slave and the decision of the state where the suit was brought determined his status as to freedom or slavery[1]

This principle was established in the case of Strader vs. Graham, in which a group of negro slaves who had been

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[1]The frequently repeated statements that the decision was obiter dictum, that the majority of the court based their decision upon the doctrines of Calhoun and that Justice Curtis refuted Taney's argument that Dred Scott was not a citizen are all shown to be incorrect by E. S. Corwin in his article, "The Dred Scott Decision, in the Light of Contemporary Legal Doctrines," in the American Historical Review, Vol. VII, No. 1, pp. 52-69.

[2]10 Howard 97.

taken from Kentucky to Cincinnati, Ohio, to furnish music claimed they were free because they had been taken to a free state. Taney, speaking for the court, maintained that the state where they lived and where the suit was brought decided their condition and Kentucky had said that they were slaves.

The Dred Scott decision was hailed with delight by the pro-slavery men who claimed that it settled the question of slavery in the territories but to the northern Democrats it was an endless source of trouble. Stephen A. Douglas, the chief supporter of Popular (or squatter) Sovereignty, was forced to explain at great length that this decision would not completely do away with his favorite scheme for disposing of the slavery question in the new territories. In his debates with Lincoln he said that the new territories could still do away with slavery by the passage of "unfavorable laws" but Lincoln maintained that a court which would make such a decision as the one in the Dred Scott case would also declare such laws unconsitutional.

While Taney upheld the court in retaining all the power which he thought to be judicial and belonging to the court he refused to allow the court to be dragged into the exercise of any power which belonged to another department of the government. A case of this kind was that of Luther vs Borden.[1] This case originated during Dorr's rebellion in Rhode Island.

When the Revolution took place the legislature of the state of Rhode Island did not think it necessary to frame a new constitution. They simply made a few changes in the old royal charter and kept that as the state constitution. According to this document there was no way to amend it. It also restricted the right to vote to a very few of the citizens of the state. When the wave of popular government swept over the country the people of Rhode Island found that they had no way of getting the right of suffrage as the state legislature refused to sanction any change in the old charter-constitution.

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[1] 7 Howard 1.

But the people who were opposed to the charter called a convention, framed a new constitution and later held an election in which Thomas Dorr was elected governor. Dorr then attempted to gain possession of the government by force. The charter government proclaimed martial law and during the struggle a party of soldiers of the charter government under the command of Luther searched the house of Borden who was one of the followers of Dorr. The case started as an action for trespass. The charter government, alarmed by what had taken place, called a convention which revised the constitution, making it satisfactory to all the people.

Luther claimed that he represented the legal government and that the troops of the old charter government were insurrectionists. He offered to prove that the majority of the people of the state were in favor of the Dorr government and maintained that martial law should not have been proclaimed.

Taney, for the court, said that the decision as to which was the lawful government of the state of Rhode Island was one for the political officers of the national government to settle and not the courts. The judicial questions involved had been decided by the courts of Rhode Island under the new constitution which both sides admitted to be impartial and they had decided in favor of the charter government as Luther had lost his case in the state courts. On questions of this kind the decisions of the state courts were final.

Congress had had no chance to decide which government was the legal one as no Congressmen had been elected. If both sides had elected members of Congress then the national legislature would have decided which members were entitled to seats. The President was the only national officer to act and he had recognized the charter government as the legal one. As this point was established the legal government of the state had the right to decide when martial law was necessary. This case settled the question of

what department of the national government has the right to act in political disputes within a state.

In regard to the rights of corporations Taney believed in protecting the contracts made with them but allowing only such things as were stated in the franchises given them. No implications or loose construction was allowed to broaden their privileges. The interest of the people came first and foremost and after them the company was considered. While the Fourteenth Amendment to the Constitution with the clause which says that no state shall be allowed to take life, liberty or property without due process of law, has weakened some of these decisions nevertheless there is considerable force left in them.

The states, according to Taney, were to have all the powers not given to the national government exclusively or forbidden to them. In case certain powers were given to the federal government and not forbidden to the states they could be exercised by the states when the national government passed no laws on that subject.

Taney refused to allow the states to encroach on the powers granted to the United States exclusively and when the power of the federal courts was involved he was a strong nationalist. While he refused to pass on the constitutionality of state laws in regard to the state constitutions he was firm on the subject of state courts attempting to pass on the federal Constitution. Treaties, Taney regarded as part of the system of federal laws and he suppressed all attempts of state courts to interpret them.

In contests between states Taney treated them both as sovereign and refused to attempt to force either to yield any of her sovereignty. He was a firm upholder of the constitutional provision that a state cannot be sued by a citizen of the same state or any other state even when the state owed a debt which it should pay. "The citizen must depend upon the sense of justice possessed by the state" was the remedy according to the Chief Justice.

With the adoption of the Thirteenth, Fourteenth and Fifteenth Amendments to the Constitution all of Taney's opinions concerning slavery became outlawed. But he had

built up a strong set of opinions as a bulwark against interference with his favored institution as strong as any judicial power could construct.

The foundation of all his slavery decisions was that slaves were property and that all laws on that subject should apply to them. Owners of slaves had property rights in them which were entitled to as much protection as the owners of land or cattle. Laws which limited the extent of slavery were in his opinion unconstitutional because the national government had no right to take away a man's property. Helping a slave to escape he regarded as stealing just the same as driving cattle from a farm.

He was a state rights supporter or a nationalist as it suited his purpose in protecting slavery and if slavery could have been saved by the Supreme Court Chief Justice Taney certainly would have accomplished that object. In his decisions on the subject he used with great effect the laws and decisions of the strongest anti-slavery states, laws and decisions passed and rendered in the days before the abolition movement started.

INSISTENT PROBLEMS AND THEIR SOLUTION[1]

HARRY J. CARMAN

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The many manifestations of human unrest so prevalent before the Great War were only temporarily arrested by that conflict. Even before the termination of hostilities this growing discontent surged forth a hundred fold into the arena of human thought and human activity. In politics, in government, in industry—in fact in every phase of institutional life—individuals and groups with different social ideals are today advocating social change. Of these, some would simply modify the existing order; others, more extreme in their demands, would destroy it. Opposed to both of these, and especially to the latter, are those who resist all change, who champion the *status quo* and who believe the last word has been said in shaping standards of human conduct.

In our complex contemporary society it would appear that the vast majority, for various reasons, never critically examine our existing social standards; neither the historical origins nor the social significance of these standards are

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[1]For some years plans have been discussed and in a few instances attempts have been made to present to freshmen in colleges and universities a general introduction to the social sciences. The most interesting effort in this direction was the preparation of a course, intended to serve as an "Introduction to Contemporary Civilization," by the departments of History, Philosophy, Economics and Government of Columbia College. The course is required of freshmen in the college and replaces other required courses in the social sciences. The introduction of this course and the success of the first year's experiment are regarded as furnishing a significant contribution to modern college education. Dr. H. J. Carman was one of the group who planned the course and who were responsible for its successful operation. The editors of the Quarterly are pleased to publish the contribution of Dr. Carman in which the nature of the course and the method of teaching involved are briefly described. Copies of the Syllabus for this course are on sale at the Columbia University Book Store, Journalism Building, Columbia University. Editors.

known and yet by many they are criticised and oftentimes denounced. To label these critics as radicals, to heap vituperation upon their heads, to confine them within prison walls, or even to harry them out of the land will not solve the difficulty. Only through a careful examination of the existing order can their challenge be met. Force and repression at best are only temporary expedients and lend nothing to the inculcation of that spirit of coöperation so necessary if men are to live and work together happily. Nowhere is there more urgent need for an intelligent understanding of the insistent problems of today than among college youth. As citizens who should participate in national affairs with clear judgment and intelligence, and as the leaders of tomorrow, it is vitally important that they understand the civilization of their day. More important still, they should be trained to meet honest and serious criticism of the present order not by blind prejudice and blustering talk but by carefully reasoned argument, being motivated always by the desire to solve these complicated problems intelligently.

It was this thought that led the faculty of Columbia College, at its meeting in January, 1919, to discontinue the required courses in History and Philosophy and to substitute therefor a new course—Introduction to Contemporary Civilization—to be required of all freshmen. Accordingly a group of instructors from the departments of History, Philosophy, Economics, and Government began preparation of a syllabus for the course. At the beginning they determined not to be restricted by consideration of available textbooks but to be guided by a desire to present in simple nontechnical fashion such information and discussion as they thought desirable for the average college freshman. The completed syllabus, which required six months of rather consistent work, was not the product of one man but represented the combined efforts of men with diverse training and, frequently, opposing points of view. The course, which is divided into three main parts, begins with a study of The World of Nature introduced by the following statement:

> "We live in a geographical, physically conditioned world, with a certain distribution of raw materials and of human beings who are supported by them, and who are engaged in social relationships with one another. In this situation problems of physical control by and for large groups of people arise."

About a week is spent in a rapid survey of the oustanding physical features of the world and the distribution of natural resources, the artificial control of these physical features being emphasized. This phase of the work is conducted by means of maps, prepared by the students, and by lectures and discussions in the classroom aided by wall maps. Following this, six weeks are then devoted to a discussion of The World of Human Nature, that is, to human traits and their social significance. In this study effort is made to have the student see that "civilization is conditioned by the original or native endowment of man as well as by the physical order of the universe," and that "human beings have certain ways of behavior which are susceptible of modification by education and habit." The main topics considered in this section are (1) animal behavior compared with human, (2) types of human behavior and their social significance, (3) the basic human desires, (4) the social and yet the individual character of man, (5) individual differences in interest and ability, (6) the place of language in human society, and (7) racial and cultural continuity. The Career of Reason is then discussed under four headings: (1) Religion and the Religious Experience; (2) Art and the Aesthetic Experience; (3) Science and the Scientific Method; (4) Morals and Moral Valuation.

For the entire section on Human Traits, including the Career of Reason, an admirable text entitled *Human Traits and Their Social Significance* has been written by Dr. Irwin Edman of the department of Philosophy, Columbia University; it is published by Houghton, Mifflin and Company and is a simple yet scholarly presentation of the important elements of social psychology.

Following the discussion of the materials with which man

must work, the three dominant concepts of the present age are considered: first, the scientific character of modern thought with special emphasis upon the doctrine of evolution; next, the modern conception of economic relations as involved in our present industrial order of mass production and world distribution; lastly, the political change whereby men have come to think in terms of the participation by the governed in their own control. These three elements in modern thought may be considered as the intellectual tools which men use in their working out of the present. To understand these unique features and to furnish the proper setting for the insistent problems of the present day, considerable time is devoted to the study (1) of the historic background of Contemporary Civilization, (2) of the recent historical development of the great national states, (3) of imperialism and the spread of European civilization, and (4) of international relations and the World War. *A Political and Social History of Modern Europe*, Vol. II, by Prof. C. J. H. Hayes, is used as a text for this part of the work.

Then, as set forth in the syllabus, there are presented in considerable detail the chief problems arising in attempts to find satisfactory solutions of the difficulties incident to the major relationships which men sustain. The problems of nationalism and internationalism, of our contemporary industrial life, of conservation, of political control, and of education are treated, with an attempt in every case to state the alternatives at issue, and to relate them to the materials through the use of which change must come, to the dominant concepts of our day, and to their own historical setting.

In addition to the two texts mentioned above each student is required to buy a copy of the syllabus and a note-book, his total expenditure for materials for the course being approximately fifteen dollars. Reference readings within the syllabus are of two types: required and non-required. In the College Study fifty copies of each of the required books are available as well as from three to five copies of all books referred to but only casually used. As a result of last year's experience it has been found necessary to place a full set of required maps in each class room.

The course meets five times a week for periods of fifty

minutes each for recitation, discussion and some lecture work although the latter is minimized as much as possible. Students meet in sections of thirty, sections being determined on the basis of psychological tests, and each section being taught by the same instructor throughout the year. The course, therefore, is not made up of a series of lectures given by different men, and the arrangement necessitates a great deal of painstaking and diligent study on the part of each instructor in order that he may acquaint himself with such a diversified field.

From the standpoint of administration, as well as of instruction, the course is revolutionary in that it cuts across departmental lines, but as the Dean of Columbia College has well remarked "college departments are devices of man rather than gifts of God."[1] The cost of instruction for the course is by no means light; twelve hours per week or its equivalent is considered a normal teaching schedule, and since the course meets five hours a week most of the instructors teaching it are giving in addition two three-hour courses.

Criticism has been made of the location of the course in the freshman year. It has been found, after a year's experience, that the freshmen are more interested in the material of the course than in anything else they are studying, that there are disproportionally few failures as compared with the number in other courses, and that the interest is so great that at the frequent meetings of representatives from each section the opinion has been expressed that this course is the best thing in the freshman year. The judgment of the instructors who have taught Freshman Philosophy and History is to the effect that the course is no more difficult than were other required freshman courses previously given and successfully taken by students in their first year. There are three good pedagogical reasons for putting the course in the freshman year:

1. It is an initiation into college study, marking a break from the work of the secondary schools and recognizing the

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[1]H. E. Hawkes, "A College Course on Peace Issues": *Educational Review*, Vol. 58, pp. 143-150.

ability of the freshman to take up the serious discussion of the problems of the world in which he lives.

2. It brings together and shows the interrelations of a variety of disciplines ordinarily thought of by the student as distinct departments. Within the course the relationships of psychology, anthropology and ethics, history, economics, government, sociology and education are brought out and the artificial distinctions eliminated. In other words, it is a step in the direction of abolishing the "pigeonhole" type of education.

3. The third reason is that the students at the very outset of their course are given an introduction to a variety of subjects in which opportunity for advanced study is offered by the University. Their early acquaintance may sufficiently arouse their interest to lead them to make elections which would be impossible if the first contact with the subjects came in the last year of college.

Frankly it can be said that this educational departure has been remarkably successful at Columbia; this success is attributed largely to two factors: in the first place the enthusiastic conviction of the framers of the syllabus and the instructing staff that the work is worth doing and doing well; secondly, the social-mindedness and splendid coöperation of those interested in the experiment. Once each week the instructors meet together at luncheon where all difficulties are ironed out and suggestions for improvement made. In the course of drafting the syllabus and again last year the group spent a week together at a country camp which afforded an excellent opportunity for acquaintanceship and discussion. The students are represented on the committee on Contemporary Civilization by a freely elected member from each section; they have been encouraged to give both destructive and constructive criticisms and have shown unusual discrimination and intelligent support. The small size of the sections, the continuity of instruction and the constant encouragement of the College and Graduate Faculties, the President of the University and the Trustees have contributed to the success of the course.

In conclusion it can not be over-emphasized that the course does not teach doctrines. Its purpose is to raise

for consideration the insistent problems of the present and to give the student, early in his college course, objective material upon which to base his own further studies and his own judgments.

DIVISION OF LATIN AMERICAN AFFAIRS

HERMAN G. JAMES, ASSOCIATE EDITOR

THE PAN AMERICAN UNION[1]

BY EDWARD ALBES, OF THE PAN AMERICAN UNION STAFF

The Pan American Union is an international organization that is unique. It is the only instance in history where twenty-one separate and independent countries have formed an equal co-partnership for the organization and permanent maintenance of an enterprise designed to promote peace, friendship, and better understanding among these nations. It is controlled by a governing board composed of the diplomatic representatives of the twenty Latin American republics of the Western Hemisphere with the Secretary of State of the United States as, ex officio, the presiding officer. Its executive officers, who are elected by the governing board, are a Director General and an Assistant Director who are directly responsible to this board for the active work of a staff of editors, statisticians, trade experts, translators, librarians, compilers, clerks and assistants who are employed to carry out the purposes of the organization.

The expense of maintaining the organization is borne by the twenty-one countries who are members of the Union, each country being assessed its quota according to its population. These countries are Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Salvador, United States, Uruguay, and Ven-

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[1]This article on the Pan American Union is particularly timely as it coincides with the close of the period of service as Director-General of John Barrett, who has acted in that capacity with distinguished merit since 1907. The new Director-General, Dr. Leo S. Rowe, is one of the foremost of American political scientists and has been for years a recognized authority on Latin American affairs. He brings with him to this important post the esteem and good will of all Latin America, as well as the confidence and respect of all friends of Latin America in the United States.—H. G. J.

ezuela. Notwithstanding the inequality of the assessment, the smallest country of perhaps less than 500,000 population exercises as great a voting power in the meetings of the governing board as does the largest country with its 110,000,000 of people. Absolute equality, regardless of size, population, or wealth, is the equitable principle which governs the organization.

The purposes of the organization, as stated above, are the promotion of peace, friendship, good understanding, and the consequent closer relation socially and commercially, among the people of the nations forming the Union. In order to accomplish these purposes the work of organization is carried on in various but more or less interrelated lines of activity and while these cover too much scope to be described in detail the following summary will suffice to give an idea of the main features:

Recognizing the fact that international misunderstanding is generally the result of international ignorance, the Pan American Union's chief aim is to acquaint the people of each of its constituent members with the activities, characteristics, and progress of the people of the others. This aim it seeks to accomplish through its publicity department whose activities may be divided as follows:

(1) The publication of an illustrated monthly magazine known as the Bulletin of the Pan American Union. This publication is unique in several respects. In the first place it is published in three different language editions, viz., English, Spanish, and Portuguese, for among the twenty-one nations comprised in the Union are countries whose national languages embrace these. The different editions, however, are not merely translations of identical contents, but each edition is especially adapted to its own sphere. For instance, matters that have no particular instructive value in the Spanish speaking countries or in Brazil may be of great interest in the United States, so that frequently articles appear in the English edition which are excluded from the other editions and vice versa. Such matters as social customs, commercial usages, simple geographical data, etc., relating to the countries of South and Central America are naturally matters of common knowledge in those countries,

but are the very things relative to which the people of the United States need information. Articles dealing with such matters are therefore published only in the English edition. As an example may be cited the series of articles which have appeared in the English Bulletin under the title "Exporting to Latin America." Prepared for readers in the United States by a member of the Pan American Union staff who is an expert on Latin American commercial matters and international trade generally, these articles cover in general terms the fundamental principles and chief bases of one side of trading with Latin American countries —the exporting side. The appeal, therefore, is to such manufacturers and exporters of the United States who, while perhaps familiar with the factors that enter into the problem of exporting to European or Asiatic countries, are neophytes as far as the other Americas are concerned. Naturally such articles are unsuited to the other editions of the magazine which circulate chiefly in Latin America. On the other hand, articles dealing with official statistics of the foreign trade of the various countries of the Union are of interest to all countries and to all commercial concerns engaged in foreign trade whether they are doing business in the United States or in Chile or in any other American country. Hence such statistical articles appear in all editions.

Again, articles dealing with the cultural status of the various countries form a special feature of the magazine. A series of articles appeared in the Spanish and Portuguese editions which dealt with the artistic development of the United States, and briefly covered the fields of music, painting, and sculpture, giving concise accounts of the works of leading artists in their respective spheres. Presuming that the readers of the English Bulletin are familiar with such works of their own countrymen, these articles were excluded from that edition.

Many articles, however, besides those on commercial matters deal with subjects that appeal to readers in practically all of the countries. Such, for example, are articles describing the larger cities of the various countries, articles dealing with leading mineral or agricultural products; ac-

counts of historical and scientific interest; non-technical articles dealing with progress in transportation, including aviation; sketches showing the present status of intellectual life and of educational progress in the various countries, etc.

In addition to the special articles covering matters outlined above, the Bulletin gives summaries, in the form of short notes, of new developments in each of the countries under six special headings, viz.: (1) Agriculture, Industry and Commerce; (2) Legislation; (3) International Treaties; (4) Economic and Financial Affairs; (5) Public Instruction; and (6) General Notes. Under these headings are to be found news items gathered from official and unofficial sources from all the countries. These items cover matters of interest and important occurrences in the varied phases of development indicated by the titles. Here, again, notes dealing with important events or occurrences in the United States are included in the Spanish and Portuguese editions but excluded from the English edition, these matters having been covered by the daily press and therefore having lost news value for English readers.

In short, the aim of the Bulletin is to be a reliable medium of information through which may be had a better acquaintance and fuller understanding of the culture, activities, and general advance in all the complex factors of modern civilization of the countries comprising the Pan American Union. Latin American readers seek such information relative to the United States, while the subscribers to the English edition desire a better knowledge of the Latin republics, and it is this demand that the Bulletin seeks to meet in its several language editions.

(2) Supplementing the work of the magazine are various other publications designed to meet the requirements of special classes of inquirers. One feature of the publicity department that has an important part in meeting the demands made on the organization as a bureau of information, consists of the publication in the form of pamphlets of special reprints of certain articles that have appeared in the Bulletin, or of specially prepared matter dealing with certain commercial information for which there is a general demand. Among such reprints of articles that

have appeared in the Bulletin may be noted the series that deals with the leading cities of Latin America, such as Buenos Aires, Rio de Janeiro, Santiago, Montevideo, Lima, La Paz, the City of Mexico, Sao Paula, etc. Another series covers all leading American products such as coffee, rice, rubber, yerba maté, tobacco, cotton, etc., while other subjects covered by similar reprints deal with various mineral products. Occasionally, series of articles covering a single subject, such as the articles on "Exporting to Latin America," are embodied in a single pamphlet and are distributed gratis among those interested in the particular subject.

Another pamphlet designed for distribution in Latin American countries generally, was published in Spanish. It consisted of 40 pages in which was set out the general system of university education in the United States, calling attention to special facilities for higher training, cultural and professional courses, explaining the educational requirements for admission, general courses of study, degrees conferred, and practical information as to expense, etc., relative to the leading universities in the various sections of the country. These pamphlets were distributed to hundreds of educational institutions and public libraries throughout Central and South America, and did much to attract students from many of the Southern republics to the United States. It is estimated that in 1918-1919 there were not less than 3,000 Latin American students among the colleges and universities of this country.

Special pamphlets dealing with foreign trade statistics of each of the Latin American countries are prepared by the statistical department of the Pan American Union, and are published as soon as official figures are received from the several governments. Translations of laws having special bearing on trade and industry are made for purposes of free distribution and to answer inquiries relative to these matters.

(3) A third form of publicity undertaken by the Pan American Union is the furnishing of press releases to the newspapers of the United States and of all the Latin American countries. These short pithy articles cover matters

of unusual interest to the reading public generally and deal with a great variety of subjects. If a distinguished official from some Latin American country is expected to arrive in the United States, a brief biographical sketch, often accompanied by a photograph, of the visitor is sent to the leading newspapers throughout the country. If some new enterprise is started, or a new development of an old industry, or a public work is completed in a Latin American country a short sketch covering the subject is sent to the daily press in the United States, publicity of this character reaching many more readers than can magazine articles. On the other hand, press releases dealing with special occurrences or events, non-political in character, taking place in the United States are prepared in Spanish and Portuguese and are sent to hundreds of newspapers in Latin American countries. While the subject matter of these releases is usually timely, they do not deal with matters ordinarily covered by cabled news dispatches of other agencies and thus do not conflict with such services.

Supplementing these various forms of publications are the activities of the information section. Hundreds of letters are received daily in the office of the chief clerk and are segregated and assigned to the various members of the staff for reply. Many of these inquiries can be answered by previously prepared multigraphed letters or by special pamphlets heretofore described. Others require the attention of experts in Latin American trade and statistics, or need special research in furnishing the required information.

In this connection, a series of pamphlets containing general descriptive data in regard to each of the Latin American countries is published. Each pamphlet covers only one country and contains (1) a condensed description of the geographical and topographical features; (2) a short historical sketch; (3) an account of the constitutional provisions and interesting facts as to its government; (4) an account and brief description of its leading industries and products; (5) the most recently available statistics and analyses of its foreign commerce; (6) a condensed description of its leading cities; (7) an account of its railways and waterways; (8) a brief sketch of its progress in education and its public

school system. These pamphlets thus cover many lines of inquiry, and are designed to answer such general questions as are usually asked by hundreds of persons in the United States whose interest in Latin American countries is more or less commercial, cultural and general. The foreign commerce sections of the pamphlets are revised each year by the statistical experts of the Pan American Staff, and this feature alone has resulted in a large demand for these little booklets. Other sections of the pamphlets are revised as occasion demands.

From this mere outline of what the Pan American Union does, some idea may be had of the manner in which the organization is carrying out the purposes for which it was founded. As to the merit and utility of this work—those connected with it may not judge. It may not be amiss, however, to cite an instance that occurred a few weeks ago. A telegram from one of the great banking institutions of New York reached the chief clerk's desk. It asked for 100 copies of the special pamphlet on a certain country and also 100 copies of a descriptive pamphlet dealing with its capital city. The required matter was at once forwarded. Subsequently it was learned that the government of the great republic concerned had applied for a large loan for the purpose of making certain civic improvements in the capital. The officers of the New York banking institution knew of the Pan American Union's publications, and in order to inform their correspondent banks in other sections of the United States in regard to the resources of the country, the municipal government of the city, the character and enterprise of its citizens, the recent civic improvements made etc., they needed the pamphlets of the Pan American Union. To float a large loan, confidence in the country applying for it, confidence based upon reliable statistics, trustworthy information as to present conditions in the city in which the money was to be expended, etc., was necessary. In order to inspire such confidence among the many financial institutions that were expected to aid in placing these bonds, the Pan American Union's publications were distributed. That is at least some indication that such publications have considerable utility. This single instance is cited merely because many

millions of dollars were involved: many other cases in which the Pan American Union experts have been consulted in regard to national loans for other countries might be mentioned, but in this case so many institutions were involved that personal consultation was impracticable.

In addition to carrying on the propaganda of Pan Americanism by printed publications, the Director General, the Assistant Director, and various members of the staff are frequently called upon to make addresses before chambers of commerce, business mens' organizations, women's clubs, social organizations, and at college commencements, banquets, and on other occasions, the subjects of the addresses always dealing with one or more phases of Pan American relations or activities. These addresses which are given publicity through the local daily papers and their exchange, are an important factor in arousing interest among the people of the United States in their sister republics, and often bring a deluge of inquiries to the Pan American Union for further particulars.

This leads to the second sphere of usefulness of the organization, viz., that of being a general bureau of information for all the countries of the Union. In this capacity it receives and answers a remarkable variety of inquiries. It frequently receives and sends out in letters, pamphlets, packages, etc., as many as 1,000 pieces of mail in a day. If there is a sudden demand for a certain product—such as coal —in any of the countries, the government, through its diplomatic representative, applies to the Pan American Union for information as to where and from whom it can be procured. If a party of business men desire to make a trip to South America, they invariably send a representative to the Union to ascertain the best routes, rates, time of steamer sailings, lists of hotels in the countries to be visited, etc. The office maintains a special service for such inquirers, and is generally able to give exact information as to railway facilities, steamer accommodations, sailing etc. Questions of all kinds pour in upon the correspondence department. Many of these can be answered by previously prepared circular letters and pamphlets but hundreds demand specific and specially prepared replies.

An an instance of the growth of the information department may be cited the interest in Latin American affairs that has been manifested in women's club circles. Scores of these clubs apply to the Pan American Union for suggestions for framing courses of study of Latin American countries, their history, progress, and affairs generally. A collection of year-books or programs has been made by the office, which are sent as examples to the inquiring clubs, and bibliographies dealing with Latin American subjects are furnished, while often special articles and pamphlets are sent to individual club members to assist them in the preparation of papers and addresses. Similar information is supplied to students of schools and colleges throughout the United States.

In order to supply the demand for information an extensive library, known as the Columbus Memorial Library, has been collected. This library contains something over 40,000 volumes on Pan American subjects, over 1,500 maps, and a superb collection of photographs numbering over 20,000 which depict every phase of activity of the people and thousands of beautiful views of the cities and countries of Latin America and the United States. In the reading room of the beautiful home of the Pan American Union are to be found the daily papers of the larger cities of South and Central America and the island republics of the West Indies, and a large number of magazines in Spanish, Portuguese and French.

One of the valuable services in the line of publicity is the providing of special cuts for newspapers and magazines. These cuts are the reproduction of the original photographs of prominent men, public buildings, views of cities, agricultural and mining sections of the various countries, etc. When a magazine wishes to illustrate an article covering some Latin American subject—say, for instance, tin mining in Bolivia, the Pan American Union furnishes appropriate cuts to illustrate the story and makes no charge therefor. It has something over 10,000 of these half-tone cuts in stock, and is constantly adding to the supply. Many daily newspapers, weekly trade journals, and high-grade monthly mag-

azines constantly make use of this free service of the organization.

These features are the principal factors which make for the promotion of peace, friendship, and good understanding among the peoples of the twenty-one countries. The features that deal with the commercial phase cover such matters as official reports on exports and imports of each of the countries which are compiled by the statistical staff from original sources and are published annually. Laws governing colonization, mining, admission of foreigners to practice various professions in the several countries, and those in relation to patent rights, copyrights, etc., are also carefully compiled and kept for reference purposes, while accurate translations of tariffs and customs laws are made from original documents.

The foregoing outline embraces the regular and constant activities of the organization. In addition to this work it is charged with the duty of preparing the programs, preserving the records, and executing the resolutions of the Pan American Conferences, held at irregular intervals and to which all the American Republics send special delegates. It cooperates in the conduct of all kinds of conferences and congresses relating to Pan American commerce, finance, education, etc., the Second Pan American Scientific Congress held in Washington, December 27, 1915, to January 8, 1916, being a case in point.

The permanent home of this unique organization is a beautiful marble structure, of pure Spanish architecture, in Washington, D. C., whose cost was $1,000,000. A generous donation of $750,000 by Mr. Andrew Carnegie, was supplemented by contributions from the Latin American countries amounting to $250,000, while the United States contributed the spacious grounds. A subsequent donation of $100,000 by Mr. Carnegie provided for the beautification of the grounds, thus giving a proper setting for the splendid building. The Director General of the Pan American Union is Dr. Leo S. Rowe. He is assisted in his executive duties by Señor Francisco J. Yanes, the Assistant Director. Dr. Rowe is an American, Mr. Yanes a Venezuelan, while members of the staff are of various nationalities, giving the personnel of the organization an international status suited to the work.

NEWS AND NOTES

LATIN AMERICAN AFFAIRS, JUNE-NOVEMBER, 1920

On September 1st, the Honorable John Barrett retired from the office of Director General of the Pan American Union and was succeeded by Dr. Leo S. Rowe, former Assistant Secretary of the Treasury.

Mr. Barrett has accepted the position as President of the Advisory Council of the Pan American College of Commerce to be opened in January, 1921, in Panama, with the cordial coöperation of Panama and the other Latin American republics.

Of special interest during the period under review are the steps being taken towards the revival of a Central American Union.[1]

ARGENTINA

On July 6, the Chamber of Deputies approved the Compulsory Arbitration treaties with Ecuador, Venezuela, and Colombia.

On October 8th, Sr. Pueyrredon, Minister of Foreign Affairs, sailed from Buenos Aires at the head of the Argentine delegation to the League of Nations Assembly, in Geneva. The delegation was instructed that all engagements entered into were to be subject to the approval of the Argentine Congress.

On October 22nd there was signed in Washington the long pending commercial travelers' treaty with Argentina. Under this treaty liquor salesmen from one country are prohibited from operating in the other.

The National Congress has approved the expense budget for 1921 amounting to 482,654,460 pesos, the principal items of which are as follows, in round numbers:

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[1]See Southwestern Political Science Quarterly, Vol. I, No.. 2, page 173, and pp. 262 and 264 below.

	Pecos
National Congress	5,000,000
Foreign Relations and Worship	5,000,000
Treasury	18,000,000
Public Debt	124,000,000
Public Instruction	88,000,000
War	44,000,000
Marine	36,000,000
Agriculture	11,000,000
Public Works	14,000,000
Pensions	18,000,000
Public Improvement	46,000,000
Charity and Subsidies	13,000,000

BOLIVIA

On July 11 a successful revolution by adherents of the Republican party overthrew the government of President Guerra as a result of the alleged pro-Chilean policy of the former President with regard to the port of Arica.[2] The Republican party demanded that the former Bolivian port of Antofagasta be secured by Bolivia instead of the port of Arica, which is in dispute between Chile and Peru. Ex-President Guerra left Bolivia on July 20th, and Dr. Escalier, chief of the Republican party was placed at the head of a provisional governing board and was made Minister of Foreign Relations.

Great Britain and France have both recognized the provisional government.

BRAZIL

Recently compiled census statistics show that in the 12 years from 1908-1919 more the 1,000,000 immigrants came into the country. Of these more than one-third were from Portugal; and the immigrants from Spain and Portugal amounted to more than three-fifths of the total. A complete census is now in the process of being taken.

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[1]See Southwestern Political Science Quarterly, Vol. I, No. 2, pages 155ff.

On September 3rd, President Pessoa signed a decree revoking the banishment of the former Imperial family of Brazil. This will enable the members of that family to return to Brazil with the bodies of the late Emperor and Empress.

King Albert and Queen Elizabeth of Belgium arrived in Rio de Janeiro on September 19, for an extended visit to Brazil.

Former Premier Orlando of Italy arrived in Rio de Janeiro on October 20, as Italian Ambassador to Brazil.

CHILE

The elections for President late in June resulted in the choice by an apparent, but disputed, result of 197 to 175 electoral votes, for Sr. Allessandri, the candidate of the Radical and Democratic parties. Under the constitution the Congress was to canvass the returns a month after the elections, but owing to the strenuous political situation resulting from the close vote, it was felt necessary to leave the decision to a Court of Honor similar to the Election Commission of 1876 in the United States in the Tilden-Hayes controversy. This commission, amidst the greatest excitement, by a vote of five to two, decided in favor of Sr. Allessandri as having received 177 electoral votes, to 176 received by Sr. Borgono, candidate of the Liberal Unionist party.

In June the proposed budget for 1921 was submitted by the President to Congress comprising estimated expenditures of 282,000,000 pesos currency, and 49,000,000 pesos gold, and estimated receipts of 190,000,000 pesos currency and 110,000,000 pesos gold.

COLOMBIA

Congress assembled in regular session on July 20.

COSTA RICA

On June 20 a convention was signed at San José, Costa Rica, by the representatives of the governments of Costa Rica and Nicaragua granting reciprocal use, in the timber commerce of the countries, of water, and streams in the vicinity of the frontier.

On June 30, a decree of the President created a Council of Public Finance to study the economic situation of the country.

The government of President Acosta, who was inaugurated on May 9, was recognized by the United States on August 2nd.

On August 23 the right of active and passive suffrage was extended to all citizens, men and women, able to read and write.

CUBA

Dr. Alfredo Zayas was elected President on November 1, over General Gomez, the Liberal candidate.

ECUADOR

Congress met in regular session on August 10. The new President, Dr. Tamayo, assumed office on August 31. He is a member of the Liberal party but included in his cabinet as Minister of Foreign Affairs Dr. Ponce, a distinguished Conservative.

On October 9 Ecuador observed the Centenary of the liberation of Guayaquil. A celebration was also held at the Pan American Union in Washington with addresses by Mr. Colby, Secretary of State, and the Minister from Ecuador, Dr. Elizalde.

GUATEMALA

On August 23 to 30 Sr. Carlos Herrera was elected President by some 230,000 votes to 15,000, the inauguration occurring on September 15. The new cabinet comprises as,

Minister of War, Sr. Emilio Escamilla (Sugar grower).
Minister of Finance, Lic. José A. Medrano (Lawyer).
Minister of Foreign Affairs, Sr. Louis P. Aguiree, (Agriculturalist).
Minister of Public Instruction, Dr. José G. Salazar, (Physician).
Minister of Public Works, Sr. Felix Castellanos (Engineer).
Minister of Agriculture, Sr. Antonio Buscayrol (Agriculturalist).
Minister of Interior, Lic., José V. Martinez (Lawyer).

On November 1 municipal representatives from Costa Rica, Guatemala, Honduras, Nicaragua and Salvador met at Antigue, Guatamala and adopted resolutions in favor of uniting the five states under one government.

HAITI

On July 21 the President promulgated a new law concerning the rights of foreigners to own real property in Haiti, in accordance with the provisions of the constitution of 1918.

HONDURAS

On August 12 representatives of the United States called on President Gutierrez to deliver the letter of recognition by President Wilson of the present government.

MEXICO

Adolfo de la Huerta, elected by Congress as interim president took the oath of office on June 1, 1920. On the 1st Sunday in August the election for Deputies and Senators to the National Congress was held. On the 1st Sunday in September General Obregon was elected President and his inauguration was set for December 1st.

Francisco Villa surrendered unconditionally to the government late in July. He was given financial aid by the

government and his 800 followers were each assured of allotments of land for farming. The mustering out of his troops occurred on August 27.

The rebellion of Cantu, Governor of the Northern District of Lower California, came to an end August 16.

In June a law was promulgated providing that the holders of large tracts of land must either cultivate it themselves or rent it out in small parcels to persons who wish to cultivate it.

An executive decree in June provides for the establishment in Mexico City of a children's hospital of 1,000 beds.

On June 30 the public debt of Mexico was announced as 657,599,122 pesos.

On August 7, the executive promulgated the national lottery law establishing a national lottery in Mexico City, the proceeds of which are to be used for charitable purposes.

NICARAGUA

The Presidential elections on October 3d and 4th resulted in the choice by a majority of two to one of Sr. Diego Chamorro, former Minister to the United States, who will take the oath of office on January 1st.

The government has decided on the construction of a new railway line 118 miles long from Monkey Point on the Caribbean to San Miguelito on Lake Nicaragua.

PANAMA

On August 1 occurred the Presidential and Municipal elections under the new electoral law which substituted direct vote for the President in place of selection by an electoral college and introduced minority representation in the municipal election. Former President, Dr. Porras, was chosen again, he having resigned his post early in the year in order to avoid the constitutional prohibition against reelection.

1920 census for Panama shows a total population of 401,428, exclusive of Indians, a gain of 33 per cent over 1910.

PARAGUAY

Sr. Manuel Gondra, Minister to the United States, was elected President late in June and was inaugurated on August 15.

PERU

Four American naval officers left on August 25 at the request of Peru to reorganize the Peruvian navy and take charge of the naval academy.

Peru also requested the United States to send thirty American educators to fill administrative and teaching positions in the secondary and higher educational systems.

SALVADOR

In July three important monetary laws were passed supplementing the currency reform law of September, 1919. On July 27 was passed a law establishing a permanent banking commission.

On August 27 the Congress passed a resolution favoring the political unity of the five republics of Central America on the basis of the federal constitution of 1898 uniting Nicaragua, Honduras and Salvador, which never went into effect.

URUGUAY

On August 5 the Congress passed a bill suppressing penalties against dueling if conducted under definitely fixed rules. This action grew out of the killing in a duel of Sr. Beltram, a newspaper editor of Montevideo, by Sr. Battle y Ordonez, an Ex-President of Uruguay.

On September 5 occurred the first duel fought under the new law, between Sr. Sosa, Editor of the Montevedio Dia and Sr. Pittamiglia, Minister of Public Works.

VENEZUELA

The proposed budget for the fiscal year July 1, 1920, to June 30, 1921, comprises estimated expenditures of 59,000,000 bolivares and estimated receipts of 60,000,000 bolivares.

On June 26 the executive promulgated a new mining law repealing the law of June 27, 1918, and all decrees and resolutions referring to the same.

On June 20 a special law was promulgated concerning hydro-carbons and other mineral fuels.

STATE EFFORTS TO COMPLY WITH THE NINETEENTH AMENDMENT

WILLIAM C. BINKLEY

University of Texas

Before the ratification of the Nineteenth Amendment to the Federal Constitution last August the women of twenty-two states did not possess the right to vote in either state or national elections. In eight others they were permitted to vote in national and congressional elections, while three more states extended to them the privilege of voting for presidential electors. This means, then, that Secretary Colby's announcement that the amendment had been ratified, suddenly changed the application of the existing election laws in thirty-three of the forty-eight states of the Union. That this change could be accomplished without complications, even under normal conditions, is scarcely believable; but when it is remembered that the national election was barely more than two months away, the fact becomes evident that a certain degree of confusion was sure to follow.

The question was at once raised as to whether, by the ratification of the amendment, women were automatically given the right to vote in this election without meeting such special requirements as had been established in the various states. Investigation discloses the fact that, in general, this proved to be the question upon which the action taken in these states was based, and the nature of such action seems to have been determined largely by the nature of the special qualifications which had been prescribed in the election laws. Opinions of attorney generals were sought as to what changes were necessary in order to bring the state provisions into conformity with the requirement that "the right of citizens of the United States to vote shall not be denied or abridged . . . on account of sex." In most instances the nature of these opinions determined what procedure was to be followed in order that men and women voters might be placed upon an equal basis in every respect.

Since this procedure differed rather widely, an analysis of the action in the various states should be worthy of consideration. For that reason an attempt has been made to secure definite information from the officials of each state where women had not previously possessed the right to vote in all elections. Answers were received from nineteen of the thirty-three, and it is upon the information contained in these replies that this set of notes is based.

The special qualifications which caused the chief difficulty were two—the requirement of a poll tax receipt, and the requirement that all voters be registered at a certain definite time. In connection with the latter, especially, action proved to be necessary only in those states where the registration period had expired before the ratification of the amendment, and as a result, in Delaware, Florida, Illinois, Indiana, Iowa, New Mexico, Ohio, and Vermont it was considered that the women had automatically been placed upon the same basis as men, and therefore were qualified electors in every respect without any additional legislation. The officials in some of these states did not even feel that it was necessary to ask the attorney general for an expression of opinion. In Iowa, however, steps were taken to enable the cities to re-district their area so that the number of precincts and polling places might be increased. In Illinois the attorney general feared that litigation would arise as a result of the objections to the nature of the ratification in Tennessee, and therefore he advised that separate ballots be designated for women and that separate ballot boxes be used in order that it might be possible to ascertain the result of the election independently of the women's vote. This plan was not used in any other state, consequently the possibility of collecting what might have proved an interesting set of statistics on the influence of the women's vote has been lost.

This group, of course, is composed of those states where the machinery was adjusted to new conditions with the least friction. To it there might be added another small group of states in which the need of a hurried adjustment was anticipated by the enactment of legislation which would au-

tomatically become operative upon the ratification of the suffrage amendment. In this group, at least three states can be mentioned. New Hampshire led the way when, in September, 1919, her legislature passed an act placing women on an equal basis with men as to voting, and stipulating that "this act shall take effect when full suffrage shall have been granted in New Hampshire under either the Constitution of the United States or the Constitution of the State of New Hampshire." This example was followed by the Virginia legislature in its regular session of 1920, and by the legislature of Massachusetts in June, 1920.

In all three of the states which took action previous to the ratification of the amendment one of the special qualifications for voting was the payment of a poll tax. As a matter of fact, the existence of such a requirement seems to have been the principal factor which made action imperative in most of those states where revisory measures were enacted. At least two states, however, which had established a poll tax requirement went no further than the securing of an opinion from their attorney general, and it is interesting to note the difference in the results.

In Pennsylvania the question was raised as to whether, under the existing laws of the state, women could qualify themselves for voting. In reply the attorney general stated that with the exception of assessment, registration, and the payment of a tax, all the requirements specified in the enumeration of suffrage qualifications might be inherently possessed by a woman. Then, taking up the question of the right of the state to assess and collect a poll tax from women, he pointed out that "the Acts of Assembly on the subject of assessment, liability to taxation and registration, beginning with the Act of April 15, 1834, P. L. 509, point out a method by which all citizens of the Commonwealth can be assessed, pay taxes and register. No one who is a citizen, and, of course, women are just as much citizens as men, can be denied the right to be assessed, to pay taxes, to be enrolled or to be registered in accordance with the law." Therefore, in accordance with the constitutional provision that all laws on the subject of election shall be uniform throughout the

state, he considered it to be incumbent upon county commissioners, assessors, and registration officers to afford to women every facility for qualifying themselves as voters, without any special action by the legislature. He went a step further and urged that the women themselves be diligent to see that they were assessed in due time and form, adding that "they should not be content to assume that this will be done, but everywhere make inquiry to see that it actually has been done." In this connection it should be noted that the situation was rendered comparatively simple by the fact that the period of assessment and payment of poll taxes had not expired.

In Arkansas, the other state which went no further than securing the opinion of its attorney general, an entirely different situation is found. In the first place, the law of the state fixes Saturday before the first Monday in July as the last date on which poll taxes can be paid. Since the tax paying period for 1920 had expired before the ratification of the suffrage amendment, the women of the state who were otherwise qualified to vote were not able to comply with the requirement that each voter shall present a receipt showing that a poll tax has been paid during the last tax paying period prior to the election. In answer to a question upon the right of the women to vote in the November election without the presentation of such receipt, on the ground that they had been enfranchised after the expiration of the time for paying the poll tax, the attorney general ruled that under the law of the state no such exception could be made. He held further that even in the emergency which had arisen it was impossible for the women to meet this qualification by paying their poll tax subsequent to the ratification of the amendment. In the absence of any effort on the part of state officials to remedy the situation, therefore, a majority of the women of Arkansas who were otherwise qualified to vote were prevented from exercising this right in the recent election because of the poll tax requirement. The state constitution provides, however, that persons who have reached the age of twenty-one since the time of the assessment next preceding an election, and who possess the other

necessary qualifications for voting, shall be permitted to vote without the payment of a poll tax. This provision was interpreted as applying to women as well as to men, so that those women who had just become of age were allowed to vote in the state.

Turning next to those states in which the ratification of the suffrage amendment was followed by legislative action in order that no distinction might be made on account of sex, it is found, as has been indicated, that the nature of this action depended, of necessity, upon the special requirements which had been established. Some had the question of the payment of a poll tax to deal with; others had the problem of extending the registration period; and one or two had both. It is possible to consider at least six states of this group, and among them the method of approach naturally varied, but in the group as a whole the general result was the accomplishment of the aim in view.

The developments in one of them—North Carolina—furnish a striking contrast from the situation in Arkansas. In April the attorney general of North Carolina was asked if the ratification of the suffrage amendment prior to the state primary election in June would automatically confer upon women the right to vote without the payment of a poll tax and without registration. His reply was as follows: "Immediately upon its adoption the amendment becomes self-executing, consequently the women can vote without the payment of poll tax, if the ratification occurs after the time for paying it has elapsed. Before they can vote they must, however, register. If the privilege of voting is conferred upon them after the closing of the registration books, they may register on the day of the election. In both cases they are in the same position as a male voter becoming of age after the poll tax period and after the closing of the registration books." He held, however, that they would be subject to all other qualifications required of men, such as residence, and educational tests.

Late in August, the legislature of the state re-enforced this decision by enacting a law which provided expressly that those sections of the North Carolina statutes prescrib-

ing the payment of a poll tax as a prerequisite for voting should not be applied to women during the year 1920. This legislation was regarded as unnecessary by some of the officials of the state, but from the point of view of presenting an effective check upon subsequent litigation concerning the validity of the election it might be considered as an important act.

In Alabama, Maine, and Maryland the period for the registration of voters had expired before the ratification of the amendment, and in each of these three states the legislature, in special session, passed an act providing for additional registration days in order that the newly enfranchised voters might meet this qualification. In Maryland an apparently needless clause was added, specifying that wherever "words or phrases are used denoting the masculine gender they shall be taken to include the feminine gender." In Connecticut a measure of a similar nature was adopted, providing that "all electoral privileges extended to males by authority of the provisions of the statutes are extended to females."

The greatest degree of complexity in connection with the situation seems to have been reached in Texas. An extended opinion was issued by the attorney general, in which he pointed out that the requirement in the Texas election laws that every person who is subject to the payment of a poll tax must have paid such tax before he can be allowed to vote did not necessarily include all male voters in the state. The poll tax law specifies that "there shall be levied and collected from every male person between the ages of twenty-one and sixty years, resident within this state . . . an annual poll tax." These two provisions taken together, therefore, would mean that while men above the age of sixty, for instance, were not required to pay a poll tax, they were to be allowed to vote if otherwise qualified. Since this was true, and since the suffrage amendment had the effect of eliminating the word "male" from the election qualifications without bringing about a corresponding change in the specifications as to who must pay a poll tax, obviously those women who were otherwise

qualified to vote fell in the same category with men over sixty years of age so far as the payment of a poll tax was concerned.

An additional question had been raised as to whether, under these conditions, men who were otherwise qualified could not vote also without the payment of the poll tax. The answer can perhaps best be given in the language of the attorney general. He said:

> The Nineteenth Amendment says nothing about women as such and is equally silent with reference to men as such, but it does prevent discrimination with reference to exercising the privilege of suffrage on account of sex. We have determined that women can vote in the general election to be held in November next without the payment of poll tax. Our laws provide in express terms that a male person who is subject to pay a poll tax can not vote unless he has paid the tax and holds a receipt showing that such tax was paid prior to the first day of February preceding such election. Are these provisions of our laws inconsistent with the Nineteenth Amendment? We think so. It is discrimination on the part of the State to require a man to pay a poll tax in order to vote and not make the same requirement of a woman. If it is discrimination isn't the basis of the discrimination one of sex? We think both these questions must be answered in the affirmative. The purpose of the Nineteenth Amendment was to give the right of suffrage to women. The language in which the amendment is framed prevents discrimination against men as well as against women. No requirement can be made of men that is not made of women with reference to exercising the elective franchise.

He ruled, therefore, that "male inhabitants are still liable for the payment of a poll tax, but failure to pay the same will not disqualify a man from voting, who is otherwise a qualified voter."

With this situation to face the governor felt that legislative action was necessary, not only in order to avoid discrimination, but also to minimize the danger of any confusion which might lead to fraudulent voting. A special session of the legislature was called, therefore, to devise a method of meeting this emergency, and its action took the form of extending the poll tax law to include women between twenty-one and sixty years of age. In this way men and women voters were placed upon an equal basis by a movement from the rear, rather than by direct action. But since the period for paying the poll tax for 1920 had expired on

February 1, the women were now unable to comply with this new qualification. To remove this difficulty, therefore, the legislature provided further that all persons who were entitled to vote under the Constitution of the United States, but who had not fulfilled the poll tax prerequisite of the state within the time prescribed, were to be granted until October 22 to meet this requirement.

There can be little doubt that various phases of the action in the states here discussed may be considered as representative of that in the remaining states which had not previously extended the suffrage to women. The nature of the action in the several states, therefore, would seem to indicate two general facts. In the first place, it becomes evident that the special qualifications for voting which the various states have established, as well as the interpretation of the operation of these requirements, differ rather widely. In the second place, and this is of vastly more importance in connection with the new situation, it is found that in essentially every case an honest and earnest effort was made by the states to render it possible for the newly enfranchised voters to exercise their privilege immediately.

NEWS AND NOTES

EDITED BY PERRY PATTERSON

University of Texas

SECOND ANNUAL MEETING OF THE SOUTHWESTERN POLITICAL SCIENCE ASSOCIATION: The Second Annual Meeting of the Southwestern Political Science Association will be held in Austin, Texas, in connection with the University of Texas on March 24 to 26, 1921. Tentative arrangements have been made by the program committee for the following sessions:

State and Local Taxation with a consideration of a model plan of taxation for the Southwestern States.

Reorganization of State Governments including among other matters budget reform and judicial reorganization in the Southwest.

Land Problems in the Southwest with emphasis upon some of the principles and problems involved in the improvement of present conditions.

The Relations between the United States and Mexico particularly as these relations affect the interests of this portion of the United States.

Training for Social Service to consider progress in the direction of training social workers.

Luncheon Conferences will be devoted to "Methods of Instruction in the Social Sciences" and to the "Annual Business Meeting of the Association."

The program committee has secured the cooperation of Professor A. B. Cox, chief of the Division of Farm and Ranch Economics of the Agricultural and Mechanical College of Texas in making arrangements for the session on Land Problems.

Among the features of the Second Annual Meeting will be addresses by Professor A. N. Holcombe of the Department of Government of Harvard University and by Professor H. C. Taylor, chief of the Division of Farm Management and Economics in the United States Department of Agriculture.

Communications relative to the program and the arrangements for the Annual Meeting should be forwarded to the Secretary of the Association or to the chairman of the program committee, C. G. Haines, University of Texas.

NOTES ON TAXATION FOR THE STATES OF THE SOUTHWEST

COMPILED BY E T. MILLER

University of Texas

In the Twelfth (1920) Annual Report of the Tax Commissioner of the State of Texas, Commissioner James A. King points out some of the conspicuous defects of the state's methods of taxation. He urges conferring upon the present State Tax Board powers possessed by a strong tax commission, such as the Wisconsin commission. He advocates an extension of the intangible assets tax to a long list of incorporated businesses. He makes the interesting proposal also of a law which will require the true consideration to be expressed in all deeds of sale of real property. Bills which provide for these reforms are incorporated in the report.

The Texas State Election Board reported on December 14 the results of the vote in the general election in November on the proposed constitutional amendments. The amendments to remove the district school tax limit of $1 and to increase the maximum tax rate of towns and cities of 5,000 population or less from twenty-five cents on the one hundred dollar valuation to $1.50 were carried. The amendment which would have removed the constitutional limits on salaries of certain state officials and would have abolished the constitutional fee system was lost.

Representative John T. Smith, of Travis County, has drafted and published a revision of the revenue law of the state. This will be submitted as a bill to the legislature which meets in January. A copy of this bill has been sent to each member of the legislature. In view of the past and future efforts of Mr. Smith, of the recommendations of Tax

Commissioner King, and of activities of the Texas League for Equal and Uniform Taxation, it seems as though Texas is about to make a step forward in its tax methods. A review of Mr. Smith's bill is given elsewhere in this number of the Quarterly.[1]

Louisiana also is on the verge of important tax developments. A commission of assessment and taxation was created by the last regular session of the General Assembly for the purpose of recommending to the constitutional convention which meets in March, 1921, a new system of taxation for Louisiana. Hon. Thomas M. Milling, of Shreveport, is chairman of the commission, which is composed of two members of the senate, three from the house and four appointed by the governor. A committee of the commission will visit, probably in January, a number of states to get first hand information about taxation in those states.

An increase in the severance tax rate by the Louisiana General Assembly in 1920 will result in an estimated increase in the revenues of the state of about two million dollars.

Arkansas also will consider at the forthcoming regular legislative session a reform of the Arkansas revenue law. Hon. George Vaughn, of Little Rock, has the responsible duty of preparing the proposed revision.

Recent information from Hon. Campbell Russell, a member of the Corporation Commission of Oklahoma, is that the collections from the gross production tax, the income, the inheritance and the indirect taxes have provided the state treasury so amply with funds that one of the first acts of the legislature which assembles in January will be to remit the advalorem tax levied for general purposes for the current year. Mr. Campbell reports that the three per cent gross production tax has proved very satisfactory in Oklahoma, both to the oil producers and to the general public.

The special session of the New Mexico Legislature, held

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[1]Infra, p. 288.

in February, 1920, created a commission of five persons to make a study of a state income tax for New Mexico and to report its findings to the governor on or before January 1, 1921. This action followed the repeal at the special session of the income tax adopted in 1919 and the veto of the repeal bill by the governor.

This is the eighth year of the Arizona Taxpayers' Magazine, which is the official monthly organ of the State Taxpayers' Association of Arizona. The October number states that it is generally understood that many proposals for amendment of present laws will be presented to the legislature which will convene in January. Among the rumored proposals is one to do away with the ten per cent limit clause pertaining to taxes for county funds and for county road funds.

NOTES FROM ARKANSAS

FURNISHED BY D. Y. THOMAS

University of Arkansas

DEMOCRATS WIN ALL OFFICES IN ARKANSAS. The Democrats of Arkansas were completely successful in the recent elections. There were nine candidates for governor in the August primary. Hon. T. C. McRae, although receiving only 42,669 votes out of a total of 164,261 votes, was declared the Democratic nominee, as neither the law nor party regulations provided for a second primary. Two of the candidates for governor were ex-service men, but received an inconsiderable vote. Two ex-service men were elected to minor state offices.

Hon. T. C. Kirby was defeated for reëlection to the United States Senate by Hon. T. C. Caraway. The issue was Senator Kirby's record in opposition to the war and war measures.

REPUBLICANS DIVIDED. The Republicans had two tickets —the "Lily Whites" and the "Blacks." The "Blacks" hoped to poll a larger vote than the "Lily Whites," expecting to get recognition from the National Committee, but their candidate fell short of their expectation.

AMENDMENTS TO STATE CONSTITUTION DEFEATED. None of the proposed constitutional amendments was adopted, because of the constitutional requirement that each proposal must receive a majority of the total vote cast. The vote in 74 out of 75 counties was: The new Initiative and Referendum, 84,481 for, 42,913 against; woman's suffrage and right to hold office 85,550 for, 48,926 against, enlarging the supreme court and increasing the salaries of its judges, 63,509 for, 62,810 against. The total vote cast for governor was about 200,000.

PROGRESSIVES CONTINUE CAMPAIGN FOR POPULAR CONTROL. Friends of the new Initiative and Referendum are preparing to initiate a more vigorous campaign in its behalf. Also, there is talk of testing the matter out in the courts, to see if the Supreme Court will not reverse its verdict of a few years ago to the effect that an amendment must receive a majority of the total vote to be adopted. The old Initiative and Referendum amendment says that "any measure" shall be held adopted when approved by a majority of the votes cast thereon, but the Supreme Court held that this did not repeal the clause in the Constitution of 1874 providing that amendments must be ratified by a majority of the total vote cast.

TEACHERS PLAN FOR MORE SCHOOL MONEY. Four years ago the seven mill limit on school taxes in the district was raised to twelve mills by an amendment submitted by petition, but now the schools are worse off than ever, many being closed. In its November session the State Teachers' Association voted to circulate a petition removing the limit altogether, both on the state and the school district, and

adding the county as a taxing unit for school purposes. The quorum court is to be allowed, on motion of the board of education, to declare any particular levy excessive and unnecessary.

NOTES FROM NEW MEXICO

FURNISHED BY C. F. COAN

University of New Mexico

EXPERTS SOUGHT IN STATE ADMINISTRATION. During the biennial period, 1919–1920, there has been a marked tendency in the state government of New Mexico to place technical administrative activities in the hands of men trained in their particular lines, as well as to call in men who can speak with authority for advice on special problems. The Department of Health and the Tax Commission are of the first group. In the second class may be mentioned the engagement of Professor Haig to report on the state system of taxation, and of Professors Strayer, Bagley, and Cubberley to give advice relative to the educational institutions above high school grade.

DEPARTMENT OF HEALTH. Prior to 1919 the Public Health Service for the state was supplied largely by part time officials of political subdivisions. There was no Public Health Laboratory in the state. This situation has been changed. The Fourth State Legislature passed an act, March 15, 1919, creating an unpaid board, State Board of Health; and an office, Commissioner of Health, whose salary is not to exceed $3,000. In order properly to organize the health service the United States Government agreed to loan Dr. C. E. Walker, Assistant Surgeon, United States Public Health Service, for a period of one year to the state without cost to the latter. At the end of the year arrangements were made for the continuation of Dr. Walker's services until July, 1921. At that time it will be necessary for the state to provide for the office of Commissioner of Health.

In order to carry on the work it was necessary to establish a laboratory. In January, 1920, Miss Myrtle Greenfield, a skilled bacteriologist, took charge of the laboratory provided in the new Science Building at the University of New Mexico. No provision was made for laboratory assistants and only through private donations has it been possible to meet the demands. The assumption was that the number of samples to be examined would be, approximately, one hundred per month, instead it has been almost one thousand.

A second step has been taken recently in the organization of local units of the State Health Service. With the assistance of the Rockefeller Foundation, county health service is being established in Bernalillo, San Miguel, and Chaves Counties. The Foundation agreed to furnish the county health officers for these counties on the condition that the counties would provide the necessary inspectors. In order to make it possible for the counties to meet the above plan, the Special Session of the Fourth Legislature passed an act, February 21, 1920, authorizing the employment of county health employees and the levying of a local tax to meet the expense thereof. Dr. F. G. Busby, of the Rockefeller Foundation, has recently arrived in Albuquerque to take charge of the Public Health Service in Bernalillo County.

THE TAX COMMISSION. The State Legislature, March 14, 1915, passed an act which gave extensive powers in matters of taxation to a commission of five paid members, appointed by the governor, and at the same time added to the statutes a law for the assessment of productive and non-productive mineral lands. According to this law the tax was to be based on the "net value" of the mineral product, all other property of the mines to be assessed as property of a similar character. This law has caused a great deal of discussion, the opposition party claiming that the mine-owners are not paying their share of the taxes. Professor Haig was employed in September, 1920, to investigate the

state taxation problem and report to the Tax Commission his findings. His report should be significant since the party in control at the time the investigation was ordered has been continued in power by the recent elections.

EDUCATIONAL INSTITUTIONS. The problems in New Mexico relating to schools above high school grade is one common to many western states but probably a more serious one in this state than in any other. The creation of a number of institutions of college grade in a sparsely settled area has increased the cost of education without providing any remarkably strong institutions. The appropriations for the biennial period, 1920-21, were, as follows: the University, $85,000; the College of Agriculture and Mechanic Arts, $178,825; the School of Mines, $13,000; the Military Institute, $50,000; the Normal University, $55,000; the Silver City Normal School, $58,000; and the Spanish American Normal School, $11,250. In addition to these sums all of the above institutions have a supplementary income derived from lands. It is evident that there are too many schools insufficiently supplied with teachers, equipment, money, and college students.

Professors Bagley, Cubberley, and Strayer have been called in by the Tax Commission for advice in solving the problem of higher education in the state. Professor Strayer, in October, visited the various schools. It may be that some advance may be made toward the solution of this difficult situation as a result of the opinions expressed by these disinterested parties.

NOTES FROM OKLAHOMA

FURNISHED BY F. F. BLACHLY

University of Oklahoma

THE COMING LEGISLATURE. The next legislative session in Oklahoma promises to be interesting since the House of Representatives is Republican as a result of the November election. The Senate, half of which is holdovers, and the Governorship are Democratic. The "Jim Crow Law," and

the present election laws, which are a substitute for the famous "Grandfather clause," so prevalent in other Southern state constitutions are special objects of attack by the Republicans.

The Republicans also feel that the state should be redistricted so as to give them a greater number of Congressmen.

MISS ROBERTSON ELECTED TO CONGRESS. Miss Alice Robertson of Muskogee, a former missionary among the Indians, a friend of the late Theodore Roosevelt, and former postmistress at Muskogee, will enjoy the distinction of being the only woman elected to Congress in the last election.

OKLAHOMA REPUBLICANS IN CONGRESS. The Republicans elected five Congressmen out of eight in the last election, despite the last Democratic gerrymander by the legislature ten years ago. The Democrats thought that at least seven of the congressional districts were safely Democratic.

GROWTH OF THE UNIVERSITY OF OKLAHOMA. The University of Oklahoma has had a rapid growth in the period from 1914 to 1920. The student body has increased from 1377 to 3914 students,—an increase of 2849, or an average increase of 47.3% per year. The University is enrolling one-fourth of the total graduation from the high schools of the state.

ENLARGEMENT OF HENRY KENDALL COLLEGE. Henry Kendall College at Tulsa is being enlarged and will be called the University of Tulsa. Plans are being perfected for the raising of a fund of $2,000,000 for endowment and additional buildings.

THE BANK GUARANTEE LAW. The law of Bank Guarantees has again demonstrated its value to the state by protecting the depositors in the recent failures of the Bank of Jones, and the Mulhall State Bank. The net loss in these

two failures aggregated about $159,000. No assessment on the banks of the state was necessary to care for the deficit. There still remains between $300,000 and $400,000 in the Guarantee Fund.

The failure of the Bank of Jones was so satisfactorily adjusted that the depositors' checks were honored by the new bank without any delay. Confidence of the depositors was retained and thousands of dollars were deposited in the new bank on the first day of business.

MUNICIPAL LEAGUE MEETING. The Oklahoma League of Municipalities, which met in Oklahoma City, was addressed by Professor Herman G. James of the University of Texas at a banquet on the evening of November 19th. Dr. James spoke on the "Plight of the Cities." He also addressed the social science faculties at the University of Oklahoma on the work of the Southwestern Political Science Association during his visit to Oklahoma.

LEGISLATIVE NOTES FROM TEXAS

FURNISHED BY OCTAVIA F. ROGAN

Legislative Reference Librarian, Texas State Library

THE ELECTION LAW AMENDED. The election law passed by the fourth called session of the Thirty-sixth Legislature has the following leading provisions:

1. The time of paying poll taxes and of obtaining exemption certificates was extended to October 22, 1920, for all elections prior to February 1, 1921.

2. Every one who participates in an election held between February 1, 1921, and January 31, 1922, and who was made a voter by the Nineteenth Amendment to the federal Constitution, being between the ages of twenty-one and sixty, must pay a poll tax prior to February 1, 1921.

3. The election laws were changed so as to include women.

4. It was provided that an affidavit would suffice for misplaced or lost poll tax receipts.

The law became effective October 2.

THE "PORT BILL" APPLIED TO COMMON CARRIERS. The famous "port bill," the most drastic measure of its kind in the United States, in its amended form declares that the uninterrupted management, control, and operation of the common carriers of the state is of vital importance to the welfare of the people and that it shall not be impeded or interfered with. It further declares it unlawful by the use of, or by threats of, physical violence, by intimidation, or by threat of destruction of property, to interfere with, molest, or harass any person loading, unloading, or transporting any commerce within the state. It still further declares it unlawful to conspire to prevent or attempt to prevent loading, unloading or transporting commerce. Intimidation, molestation, and harassing are defined to include actions and cummunications with a near relative of the strike-breaker that are designed to prevent his continuance at work. When during a strike, local authorities fail to enforce the law, the Governor after investigation shall issue a proclamation declaring such conditions exist and describing the area effected; the Governor shall then exercise full police jurisdiction over the area, thereby superseding local authority in the area described. The State Rangers are to be used in enforcing the act, and the Governor may employ as many special rangers as necessary. While the intention of the bill is to prevent the necessity of declaring martial law, the Governor may declare the area under martial law if he deems it necessary.

Indictments for any violation of this law may be returned by the grand jury of the county in which the violation occurs or by the grand jury of any county adjoining the area covered. Any indicted person may be prosecuted in the county in which the indictment is returned, but no indictment shall be returned in any county except for offenses occurring after the proclamation is issued. The defendant's right of change of venue is unimpaired.

The state, too, has the right of the change of venue. If the Attorney General believes local conditions, preferences, influences, and prejudices are such that a fair and impartial

trial cannot be had in the county where the indictment is returned, he, or the local prosecuting attorney, can make a motion for a change of venue to any county not subject to such conditions; and it is the duty of the district judge to issue the proper order. When so directed by the Governor, the Attorney General is to assist in prosecutions.

Violations of the act, except in case of physical violence or threats of life, are misdemeanors and are punishable by a fine of one hundred to one thousand dollars, or by imprisonment in jail from thirty days to one year, or by both the fine and imprisonment. Acts of physical violence or threats of taking life are made felonies and are punishable by imprisonment in the penitentiary from one to five years.

The act becomes effective January 1.

LABOR LEGISLATION. The leading provisions of the labor bills are:

1. An Industrial Commission is created to consist of five members appointed by the Governor for a term of two years.

The Commission receives only its expenses for its services and one member represents the employer, one the employee, and three the public.

The Commission elects its chairman and selects a stenographer to act as secretary.

The Commission is to hold public hearings concerning disputes referred to it by the Governor, and is to report its findings to him, to the news agencies of the state, and to the legislature, if it is in session,—otherwise to the succeeding legislature. The report is to include findings, recommendations and a transcript of the evidence.

The weakness of the Commission is that it lacks power of compulsory arbitration or the enforcement of its decisions.

2. House Bill No. 36 levies, in addition to license fees, an occupation tax of five thousand dollars upon emigrant agents. Violation of this act is a misdemeanor, the penalty for which is a fine not exceeding double the tax and an imprisonment not exceeding one year.

3. House Bill No. 37 made fundamental changes in the present emigrant agent law by increasing the agent's bond from $500 to $5,000 in each county in which the agent operates and the license fee from $50 to $100. A new section requires the Commissioner of Labor Statistics to notify the Comptroller and the proper county tax collector of the issuance of all licenses.

These measures become effective on January 1.

THE TIME OF THE UNIVERSITY'S OIL LEASES EXTENDED. The time which may be required for the completion of an oil and gas well on the University's land has been extended from one to five years. This law became effective October 2nd.

SEVERAL MINOR MEASURES. Of the 22 bills that passed the legislature at this session, there were measures relating to tick eradication, per diem, mileage and contingent expenses, emergency appropriations and twelve local bills.

NOTES FROM TEXAS

The Social Science Section of the Texas State Teachers' Association met in Fort Worth, Texas, November 26, 1920. Papers were read as follows:

"The Relation of Economics to History," by Professor Clarence D. Johns, Baylor College, Belton, Texas.

"Some Possibilities of Cooperation," by Professor F. B. Clark, A. and M. College, College Station, Texas.

"Should Public School Teachers Be Trained in the Social Sciences," by Professor A. C. Burkholder, Southwest Texas State Normal College, San Marcos, Texas.

The officers elected for the coming year were: F. B. Clark, chairman; W. M. W. Splawn, University of Texas, secretary-treasurer.

The Social Science Section was organized in November, 1917 at Waco, Texas, with Professor Splawn as chairman. Since the organization of the Section about fifty members of the State Teachers' Association have become affiliated with the Section, including a majority of the instructors in economics, government, and sociology in Texas colleges. An

increasing number of high school teachers of these subjects are coming into the Section.

Steps have been taken looking toward an affiliation of the Social Science Section with the Southwestern Political Science Association.

Dr. John C. Granbery, professor of sociology and economics in Southwestern University until 1917, when he went abroad in War Service with the Y. M. C. A., has returned to take up his duties. After the armistice he was sent to Greece where his work was signally honored with a Golden Cross by the Greek Government.

In 1918-1919 the number of students attending the University of Texas at Austin, exclusive of the Medical Branch at Galveston and the College of Mines and Metallurgy at El Paso, was 2812, which was the largest attendance the institution had witnessed up to that time. The registration in 1919-1920 showed a further increase of more than a thousand students, the total being 3982. In view of the exceptional gain last year it was thought the University would do well to hold its own this fall, but the registration figures are now 110 above those for the corresponding date last year.

D. Appleton & Co., announce the publication of a book now in press by Professor Herman G. James of the University of Texas on "Local Government in the United States," which treats of both urban and rural local government in the United States with a chapter on English and French local government for comparative study.

Special Notice. At a meeting of the Executive Committee of the Southwestern Political Science Association on October 18, 1920, it was voted that membership dues including subscription to the Quarterly be raised to $2.00, the new rate to take effect on January 1, 1921.

BOOK REVIEWS

PROPOSED TEXAS TAX CODE

Being a tax bill to be submitted by Representative John T. Smith, of Austin, Travis County, Texas, to the Thirty-seventh Legislature. (Published by A. C. Baldwin and Sons, Austin, Texas, 1920. Price, $2.00.)

Texas is one of the very few states which has the uniform and decentralized general property tax. This form of the property tax is antiquated and has been abandoned in all but about six of the states. What are the conspicuous defects of this tax in Texas? Most of them are commonplaces, so often have they been enumerated in the reports of the State Tax Commissioner, in the proceedings of the State Tax Assessors' Association, in the publicity work of the Texas League for Equal and Uniform Taxation, and elsewhere.

There are gross inequalities among the counties in the proportion of assessed to true values of real property; there are similar inequalities in the proportion of assessed to true value of items of personal property like livestock; and there is an astounding evasion of assessment by personal property in the forms, especially of money, credits and securities. As long as there is the general property tax, the wholesale escape of all forms of personal property results in real property having to bear an increasing share of the weight of taxation. There is under-taxation of business, and especially of corporate business. The piecemeal method of assessment; that is, the assessment by county assessors of railroad, telegraph, telephone, express, pipeline and like property is obsolete and farcical. The last defect which may be mentioned is the great waste, cost, and loss incident to the property tax, and due to delinquency, to insolvency, and to fees to assessors and collectors.

The preceding being the chief defects of the existing Texas system, Representative Smith's proposed revision may be reviewed to see how he plans to remedy them.

For the existing decentralization Mr. Smith proposes a great increase in the duties, powers, official help and financial support of the Tax Commissioner. The Tax Commission is to be composed of the Chairman of the Railroad Commission, the Comptroller of Public Accounts and the Tax Commissioner. The Commission is thus preponderantly an ex-officio one. The most successful tax commissions in the country are not of this character, but are composed of officers who give their time exclusively to the work of the commission. There is grave doubt of the propriety of a member of the Railroad Commission being a member of the Tax Commission. The objections to the ex-officio type of the commission are only slightly diminished by the fact that the duties of the commission as a body are light. Though its principal duties are to hear appeals and to fix the final values of railroad property, the proper performance of these duties are likely to prove very heavy in the early history of the commission.

The centralized functions are lodged almost exclusively with the Tax Commissioner and his assistants. The ways by which the bill seeks to secure more uniformity in the proportion of assessed to true values are by making the Tax Commissioner the governing head of the state tax system and by prescribing that his directions and advice shall govern the county tax officials. Failure, refusal, or neglect of a tax assessor or of a board of equalization to assess property at its true value or to perform their other statutory duties shall be cause for removal from office. The process of removal is that the Attorney-General, or some one under his direction—and the bill provides for a special tax attorney attached to the commission—shall bring suit for removal from office in the district court of the county where the offending official resides. To avoid extravagance of appropriations and increased debt creating power of counties, both of which would be possible if assessments were all brought up to full value, the bill provides that while renditions shall be at full value, the basis of assessment shall be sixty-six and two-thirds per cent of full value. An important proposal, and one that is rather vital to the efficient

operation of the powers of the commission, is that there shall be called every two years a joint meeting of the Tax Commission, the county judges and county assessors. In view of the expense that this involves, and also because a longer term would make for better administration, it is unfortunate that the term of office of the assessor is not four years. But the two year term, as well as county assessment and collection of all property taxes, is imbedded in the state constitution. While Representative Smith's remedies for decentralization are, if they should prove to be constitutional, the utmost that can be done under the constitution, the best can never be done except by an amendment or a rewriting of the organic law.

With a view to correcting the escape of certain items of personal property, Mr. Smith proposes the substitution of a stamp tax for the property tax. The personal property affected is bonds, notes, debentures, and similar obligations —public and private—for the payment of money. While it is doubtless the intention of the bill to exempt securities which have less than one year to run, this limitation is specifically made only in the case of unsecured debts. Also, the definition in the bill of "secured debts" makes that term include what are technically unsecured debts. The tax starts with a rate of twenty-five cents on each one hundred dollars or fraction thereof of the face value of the security and increases with the life of the security until a rate of $1.25 is reached. The payment of this stamp tax will exempt the security from all future property and other taxes, whether state, county, town or city. The tax is light enough for the state holders of any and all securities to pay, but it is clear that the only obligations which are sure to be reached are those issued by the state and its political subdivisions and notes and bonds secured by mortgages of record, since the tax must be paid on these at the time of issue or when they are made of record. By a strict interpretation of the phraseology of the bill bank loans would be included as taxable, though this would not be possible so far as national banks are concerned. There are possibilities of injustice both as between security holders and

as between borrowers; also, foreign held bonds can not be so taxed. Bond dealers and mortgage buyers of this state would have to pay the tax before they knew whether the ultimate purchasers would be residents or non-residents. It is an open question, therefore, whether the feature of compulsory payment of the tax at the time of issue or of record is desirable. When one begins to see the difficulties and possible injustices incident to a tax of this kind, the conviction grows that personal property taxation should be abolished and an income tax substituted. This is the tendency in modern state tax reform. But for the income tax to be any more successful than the farcical personal property tax, administration of taxes must be greatly improved. The secured debts tax is, however, a big step in the right direction.

The bill makes some additions to the list of occupations subject to license taxes, but this is a minor matter. Very much more important is the extension of the gross production tax, now only applicable to oil production, to sulphur production and lumber production. The proposed tax on these is two per cent. These two new taxes should prove to be very productive. It is somewhat of a surprise to note that the bill proposes to reduce the oil production tax to one per cent.

An important change is made in the methods of valuing railroads for purposes of taxation. Rendition of all of their real and personal property is to be made to the Tax Commission; the commission thereafter values same and certifies the values to the different county assessors. The valuations may be reviewed, however, by the county and city boards of equalization, but if they should be so changed that they do not appear equal and uniform with other property assessed, the Tax Commission shall adjust the value of all property. This is a step towards centralization of assessments of property which extends beyond municipal and county boundaries, but it is only a step. It is not clear why telegraph, telephone, pipe line, and other businesses analogous to railroads should not have the same method of assessment for their advalorem taxes. The taxation of the

intangible assets of railroads is abolished by the proposed bill. While the intangible assets tax has been much criticized in certain circles of this state, taxation theory approves intangibles as a basis of taxation as long as the ad-valorem method of taxation is used. One view is that it is not so much that railroads are overtaxed as it is that other businesses are undertaxed as compared with the railroads. Taking into consideration federal, state, county, town or city, and district taxes, there is probably not undertaxation. The state government, however, gets less than its due share of the receipts of corporations and particularly of those engaged in exploiting the natural wealth of the state.

Important changes in the inheritance tax are proposed in the bill. First of all, the tax is extended to apply to direct heirs. The present tax is one only on collateral heirs. An exemption of $25,000 is suggested for direct heirs. In the second place, there is the proposal to exempt from the tax the stock of foreign corporations owned by citizens of the state and to subject to the tax the stocks and bonds of domestic corporations owned by non-residents. While there are many precedents for this suggested treatment of corporation shares, it is directly contrary to the provisions of the Model Inheritance Tax Law approved by the National Tax Association. It seems to be better that the state which determines the devolution of the property should be the one to levy the inheritance tax thereon. Finally, there are provisions proposed for the much needed improvement in the administration of the tax.

One of the outstanding features of the proposed law is the requirement that the plat system shall be installed in every county of the state. This will call for a platting of the surveys of land and of city and town lots and blocks. The result will be a system of tax maps. Half of the cost is to be paid by the county and half by the state. In view of the value to towns and cities of such a system, it appears as though some of the cost of installing the system should be imposed on them. The work of platting is to be completed within two years by the terms of the bill. Whether this is a long enough period to allow is extremely

doubtful. While the installation of this system will be expensive, it is something that is badly needed. The absence of any kind of tax maps results in a surprising amount of land escaping assessment. The Tax Commissioner in his report for 1920 states that 1,902,320 more acres of land were assessed in 1919 than in 1918. All that acreage was in the state in 1918, but it escaped the assessors' eyes. Though it is subject to back assessment, its non-assessment any one year is an illustration of the loose and unsystematic methods practiced. The plat system would help to remedy this and would have also other beneficial results.

Delinquency is one of the oldest and greatest evils of the present system. Unless taxation is excessive, the piling up of delinquent taxes is an intolerable defect. The bill seeks to curtail delinquency and to bring delinquents to terms. The indifference of county and district attorneys towards the matter is one explanation for the situation, and the bill provides a way for their removal from office for non-performance of their duties with respect to delinquency. A provision of doubtful merit is the virtual waiver of all delinquent property taxes before 1910. The Tax Commissioner in his report for 1920 recommends that a receipt for current taxes shall not be issued until all delinquent taxes, penalties, interest and costs assessed against the property and due the state and county shall have first been paid, unless a suit is pending at the time for the collection of such delinquent taxes. Neither the commissioner's suggestion nor Representative Smith's proposed waiver commends itself to the reviewer. Some delinquency is no doubt due to the ignorance of the taxpayer and to the absence of system in the collectors' office. What seems to be a simple remedy for this is to require that every tax receipt should show on its face the amount of taxes due for the current year and the amount, if any, of delinquent taxes. Instead of waiving taxes, they might be cleaned up by requiring the county or the state to contract with some person for the collection of all back taxes. There is a lack of consistency in the bill when it provides for the collection of back inheritance taxes by contract and fails to provide for the col-

lection of back property taxes in the same manner. The only constitutional amendment suggested in the bill is one designed to remove any doubt about the state's lien on property for taxes.

There are many minor features of Mr. Smith's proposed bill to which well merited attention might be directed, but lack of space prevents their notice here. The outstanding features have been noted, and a careful consideration of them warrants the conclusion that the bill would, if adopted, mark a big forward step in taxation methods in this state. It is rather unfortunate, however, that the proposed system does not follow more closely the Model System of State and Local Taxation advocated by a committee of the National Tax Association. But Representative Smith deserves the unstinted thanks of the citizens of Texas for the important work he has done. His bill will undoubtedly provoke a discussion which will advance the cause of better taxation, and even if not all, or even a major part, of it should be adopted, it will have served well its purpose. The fear is that there will be rallied under the slogans of "too much government," "too many boards and commissions already," many opponents to this bill and to any other reform of taxation. To students of public affairs, a strong tax commission and other tax reforms do not mean more government but merely that the government is endeavoring to perform its old task with less resulting injustice and with at least a decent approach to business like methods.

E. T. MILLER.

University of Texas.

POSTSCRIPT.—Since the publication of the proposed Tax Code, Representative Smith has made some changes, of which the reviewer has been advised of the following: instead of submitting the code as one bill, it will be broken up and the several parts will be introduced as separate bills; the State Comptroller has been dropped from the membership of the Tax Commission, and the rate of the gross production taxes on sulphur and lumber have been reduced to one per cent. E. T. M.

BEVERIDGE, ALBERT J. *The Life of John Marshall.* 4 vols., illustrated. Boston: Houghton Mifflin Company, 1916-1919. Pp. xxxvi, 506; xvi, 620; xxi, 644; xviii, 668.

Mr. Beveridge tells us at some length of Marshall's troubles in writing his Life of Washington and of the despair of his publisher over the long drawn out story calling for so many volumes. Whether Mr. Beveridge's publishers approached him through a friend, beseeching him to condense, we do not know, but this may be safely affirmed, that the first two volumes might very well have been condensed into one and the last two shortened somewhat so far as the life of Marshall is concerned.

This is not saying that the volumes do not make interesting reading. For the most part they do. This is especially true of the lengthy chapters on "A Soldier of the Revolution," "Valley Forge and After," and "Life of the People." The chapter on "Popular Antagonism to Government" is more in point, for that was something which Marshall had to face. But one is astonished to find 170 pages devoted to the Virginia Convention (1788), in which Marshall did not play a particularly conspicuous part. Possibly a justification for this can be found in the fact the convention was debating the Constitution, and that Marshall made his reputation by interpreting this Constitution.

The second volume covers American History from 1789 to 1800, mainly as it centered about the capital and Virginia. Here it is hard to see why 121 pages should have been devoted to the French mission which resulted in the X Y Z incident, or 58 pages to Marshall's candidacy for Congress in 1798 when he was called on to help rescue the Federalists from the embarrassment occasioned by the alien and sedition laws.

The last two volumes are given over to Marshall's career as a jurist, with a few side lights. Here the life of Marshall is set forth in bold relief, but the reader can not help wondering whether the author received the greater satisfaction in glorifying Marshall or in discrediting Jefferson. He is also puzzled to understand how one could write a lengthy account of nullification with only a bare allusion to

Calhoun. The chapter on "The Burr Conspiracy" is very illuminating and interesting, but much longer than necessary for an account of Marshall's part in it.

Of the decisions discussed at length there are two in which the reviewer finds it impossible to agree in full with the author's conclusion as to their sanity and justice, namely, the Dartmouth College case and Fletcher v. Peck.

Nothing seems to have been more sacred to Marshall than a contract or a vested right. Contracts were to be observed and enforced. The trouble with Marshall was that he so defined contract as to make it a blanket with which to cover privilege, leading to the confusion of privilege and property, and that he refused to inquire into conditions which could easily be held to invalidate a so-called contract. The Dartmouth College case illustrates the first, Fletcher v. Peck the second.

With regard to the meaning of "contract" there seems to be little room for doubt that the contract clause of the Constitution was intended to cover only contracts or agreements involving money considerations or exchanges of value between private parties. It is doubtful if any state at that time would have consciously voted to turn over to another the power to say that it should never repudiate its debts, or even change the charters it had granted.

The charter granted by Governor Wentworth, Chief Justice Marshall treated as a contract irrevocable except by mutual consent. It is a notorious fact that colonial charters, along with some others, were abrogated by quo warranto proceedings. To be sure some American historians have condemned the king for such arbitrary proceedings, but they stood in English law, from which our legal system was derived. And Marshall was a legalist. That a sovereign can grant away forever its rights of government without abdicating is simply an absurdity.

Mr. Beveridge seems to think highly of the decision, but admits that the trend has been against it. It is doubtful if "its principles have become so imbedded in the jurisprudence of the United States as to make them to all intents and purposes a part of the Constitution itself," Mr. Justice Waite to the contrary notwithstanding. The courts, owing

to the custom of *stare decisis*, are slow to overthrow outright previous decisions, but they hew them away by contrary decisions, some times while quoting with approval the very ones which they propose to evade. Several cases could be cited not in harmony with the Dartmouth College case. This is not surprising for many, Judge Cooley among them, have thought that out of this case have developed private powers the most enormous and threatening to our country.

Mr. Beveridge thinks that America could not have developed so rapidly and solidly without the power which the law as announced by Marshall gave to industrial organizations. It may be so. Can it be denied that the rapidity and solidity with which these industrial organizations have destroyed or monopolized our natural resources and entrenched themselves behind great wealth protected by "sacred" contracts in the form of charters have been a curse to the nation? Perhaps some future historian will trace our industrial bondage to Marshall's Dartmouth College decision.

Besides the direct beneficiaries of a contract Chief Justice Marshall had a tender regard for another part of humanity, the "innocent purchaser," as was brought out in Fletcher v. Peck. The man who buys a stolen horse must lose, however innocent, but the man who buys property plundered from the public is an "innocent purchaser" and must be protected, however familiar he may have been with the theft.

The remedy declared by Marshall to be open to the people is to elect good men. That, I take it, was said in all seriousness, not in sarcasm. But we can not always be sure we are electing good men. Then if, after we find that they are bad, we decide to turn the rascals out and undo their rescality, we find that our hands are tied with "sacred" contracts.

The reader will not mistake a mere difference of opinion with the author in certain respects as an unfavorable comment on his work. Mr. Beveridge has rendered a distinct and remarkable service to the cause of history. When defeated for re-election to the Senate he gave himself up to this work, though he had no cause to feel that his retirement

was permanent. Our loss in politics has been our gain in letters. Painstaking investigation is evident throughout the four volumes, yet nowhere does the author become pedantic. The work will prove easy and attractive reading to the casual reader and of inestimable service to the student and investigator. Its value to the latter is greatly enhanced by a bibliography and a carefully prepared index.

DAVID Y. THOMAS.

University of Arkansas.

LATIN AMERICA

LATANÉ, JOHN H. *The United States and Latin America.* Doubleday, Page & Company, 1920. Pp. 346.

MUNRO, DANA G. *The Five Republics of Central America.* Oxford University Press, 1918. Pp. xvi, 332.

A most encouraging development of recent years from the point of view of students of Latin American affairs is the appearance for the first time of instructive and authoritative works in English in this field. Among the more notable of these are the two volumes here under consideration.

The volume by Professor Latané does not, it is true, present an essentially new work, for most of the material contained in this book appeared in his book "The Diplomatic Relations of the United States and Spanish America" published in 1900, while the chapters designated as wholly new in the preface, are based to some extent on material contained in the author's "From Isolation to Leadership," published in 1919. But the treatment has been brought down to date and is presented in a sufficiently complete and connected form to constitute a real addition to the literature of the subject.

The work contains nine chapters and two useful maps, the latter of South America and the Caribbean, respectively. The first two chapters treating of the revolt of the Spanish colonies and the recognition of the Spanish American Republics are of course primarily concerned, as the title of the volume indicates, with the relation of the United

States to these events, but they are described with such comprehensiveness that they constitute valuable discussions of these developments in their more general aspects also. The next four chapters treat of special aspects of the larger subject; the United States and Cuba, the Panama Canal, French intervention in Mexico, and the two Venezuelan episodes. These chapters give an admirable history of some of the most important problems of American diplomacy in relation to Latin America, which have been too generally obscure or misconceived in the minds of Americans. Similarly the next chapter, treating of the advance of the United States in the Caribbean treats frankly and fully of phases of the diplomacy of the United States which have been misunderstood at home and misinterpreted by our Latin American neighbors. While not sparing of criticism where this was considered merited, the author has nevertheless presented the point of view of the United States in a moderate and sympathetic way which should find response in the minds of some of the severe critics of our government among our sister republics.

The last two chapters deal with subjects of more general application. One treats of Pan Americanism and the steps that have been taken in the direction of realizing that ideal. The other, entitled the Monroe Doctrine, develops further the treatment of that much disputed subject already treated in the earlier chapters, bringing its consideration down to the latest pronouncement of President Wilson on the subject and its relation to the League of Nations.

It is of course inevitable that there will be disagreement with some of the conclusions of the author on controvertible phases of his subject. It is doubtful, for instance, whether we are yet sufficiently far removed from the developments in our Latin American policy under the present administration to venture an evaluation of their motives and their effects, in a scientific discussion. But differences of opinion can not operate to diminish appreciation of the real value of the author's work. It is to be hoped that the phases of American diplomacy in relation to Latin America not touched upon in this work will receive treatment in the same admirable way in the near future.

While Professor Latané has thrown light in his work chiefly on the relation between the United States and some of the Latin American states, Dr. Munro has dealt with a little known part of Latin America from the point of view, primarily, of their internal affairs. His work is issued by the Carnegie Endowment for International Peace as one of a series of studies of the Latin American Republics under the Division of Economics and History of the Endowment. Its purpose, as stated in the editor's preface by President David Kinley of the University of Illinois, is to acquaint our own people with conditions in these countries as interpreted by a student and critic from among ourselves, in order that we may get a better and more sympathetic understanding of the ideals and conditions of life of our Central and South American neighbors. This purpose has been admirably achieved in the present volume, and it is perhaps not too much to hope that the work may also hold up a helpful mirror to the citizens of those countries themselves in which they may clearly see their merits and shortcomings as reflected in the views of a discriminating and sympathetic outsider.

The countries discussed are the republics of Guatemala, Nicaragua, Salvador, Honduras, and Costa Rica. The first two chapters deal with a general description of the physical, racial, social, economic and political conditions in the entire area under consideration. The profound influence of the first named factors on the last mentioned is obvious, but too often is the necessity of picturing the first as a means of interpreting the last overlooked in works of this kind. The necessary historical background is given in a discussion of the political events beginning with the declaration of independence in 1821, in which the similarity of conditions and the close political connection between the five countries under consideration is clearly set forth. The next five chapters take up the more detailed consideration of each one of the countries separately, thus completing half of the volume.

The second half of the book is concerned largely with more general topics, such as the causes of revolutions in Central America, Central American finance and commerce,

and Central American federation, the last named question being one of the foremost of political issues among these states today. Other topics discussed in the latter part of the book include some of those taken up in Professor Latané's book also, such as the intervention of the United States in Nicaragua and the influence of the United States in Central America. These important topics being approached by Dr. Munro from a slightly different point of view from that adopted by Professor Latané in his later work afford an interesting study of an essential and yet largely neglected phase of the relations of the United States with the little known republics of Central America.

The publication of similar studies on the other Latin American states, promised by the Division of Economics and History of the Carnegie Endowment, will be awaited with genuine anticipation by all students of Latin American affairs.

These two volumes taken together have already supplied the teacher of courses on Latin America with admirable material of a kind which has been urgently needed. The availability of such books should do much to stimulate in our universities and colleges the interesting and profitable study of our sister republics in this hemisphere.

HERMAN G. JAMES.

University of Texas.

SELIGMANN, HERBERT J. *The Negro Faces America.* Harper and Brothers, New York, 1920. Pp. iv, 319.

Among the half dozen or more books that have appeared recently dealing with the race problem Mr. Seligmann's, *The Negro Faces America,* will have to be taken into serious account. There are ten chapters and an appendix. The titles of most of them, such as "Why Race Riots," "Anthropology and Myth," "Certain Effects of the War," "The Negro in Industry," "The American Congo," and "Social Equality and Sex," will give some idea of their contents. The appendix gives the report of the president of the Louisiana Federation of Labor on an appalling situation with

regard to the treatment of negroes in the lumber and paper mills of Bogalusa, Louisiana.

Most of Mr. Seligmann's statements of facts, dark as they are, can hardly be denied, but it does not follow that all of his inferences and conclusions are true. For example, he notes that "vengeance is visited upon those of their [negro] race who advance materially" and concludes that "it is class and not race prejudice, that poisons race relations." The reviewer has no statistics on this point, but he doubts that it can be shown that vengeance is visited upon a relatively greater number of the successful negro than of the ne'er do wells and vicious. But granting that it is true, does not the fact that successful white men are not subjected to vengeance while successful negroes are, leave ground for belief that race, not class, prejudice has something to do with it?

Much, both pro and con, has been said about race inferiority. Mr. Seligmann declares that race which laboriously cuts down trees with stones and burns them out to make canoes is not standing still. Absolutely no, but, with all due respect to the anthropologists, relatively yes. The white man quit that procedure thousands of years ago, but the negro is still at it where he has not learned better from the white man.

After painting a dark picture of wrongs and insults and quoting without disapproval radical leaders who denounce such constructive work as that of Washington and Moton and one who betrayed and attacked the last named, it is no wonder that the author holds the note of pessimism to the end. About the only constructive proposal is the suggestion for the creation of a cabinet officer responsible for investigating maladjustments and for initiating campaigns of information and education—something utterly impossible at least for the present. But his book is worth while in calling attention to evils of which the whites need to be informed. The book has no index.

D. Y. Thomas.

University of Arkansas.

SHORT NOTICES[1]

FENWICK, CHARLES G. *Political Systems in Transition.* New York, Century, 1920.

In the preface to the book under consideration the author states that the present study is an attempt to survey the changes brought about by the recent war in the governments of nations, particularly in that of the United States. By comparison and contrast he endeavors to show the relative strength and weakness of the various political systems and the probable lines along which reconstruction is to be worked out.

The book is divided into four parts. Part I is a study of war as a test of democratic government, and a delineation of the constitutions of the great nations at the time of the outbreak of the war. Part II takes up the study and comparison of the changes brought about by the war in the political institutions of the European countries. One chapter is devoted to a discussion of the situation in those countries in which there was an overthrow of the existing government, namely, the downfall of the Kaiser, and the new German government; the dethronement of the Hapsburgs in Austria-Hungary, and the attempt toward a republic in that country; the fall of Czarism in Russia, and the swing of the pendulum to another and worse form of autocracy. Another chapter discusses democracy in Great Britain and France in which only constitutional changes were brought about. Part III is a study of the changes in the political institutions of the United States—the war powers of the President; the emergency legislation adopted by Congress; and the movement for reform in the organization and administration of the state governments. Part IV deals with the problems of reconstruction in the United States, one chapter taking up the question along industrial lines, another along political lines, and a third

[1]Prepared by Sarah Scott Edwards, Reference Assistant in the Bureau of Government Research, University of Texas.

discussing the problem of reconstruction of the international relations of the United States.

If in outward appearance there seems to be little change in the political systems and institutions of the countries discussed, Dr. Fenwick assures us that beneath the surface currents are still stirring which in time may bring about the high ideals called forth by the war.

BLASCO IBANEZ, VICENTE. *Mexico in Revolution.* New York, Dutton, 1920.

This book is a record of the impressions gathered by the author during a six weeks stay in Mexico at the time of the revolution, and just preceding the overthrow of the Carranza administration in the spring of 1920. These impressions, to a large extent, are portrayed as pen pictures of the persons who stood in the limelight of Mexican affairs at that time, and were gathered by the author in his association with, and observations of these persons during his sojourn among them. Each of the characters is described in an intimate and somewhat unconventional style.

Senor Blasco Ibanez also describes the pitiable condition of the country in which "peasants are starving in a rich land"; the ignorance of the people in regard to other countries, illustrating the point with striking incidences; the strength of militarism; and the need of a strong civilian administration. According to the author, the hope of Mexico lies in the group of honest Mexicans, most of them living in exile, whose time will come with the overthrow of militarist anarchy and revolution. The reason for confidence in this group lies in the fact that they have lived in other countries and have acquired a broad outlook on national and international affairs that is lacking in Mexico.

FOSDICK, RAYMOND B. *American Police System.* New York, Century, 1920.

The volume under discussion is based on the study of the police systems in seventy-two cities of the United States

including practically every city with a population of more than 100,000, and many of smaller size. The author not only traces the history and growth of American police systems from the parish constables and their civilian watches of colonial days down to the highly organized police forces of our large cities of today, but he also contrasts the American system with those of European cities. The fact that our own systems suffer in the comparison is due, in the judgment of the author, to a number of causes, among them: the heterogeneity of our poulation; the preponderence of crime in America; the weakness of our judicial system; our unenforceable laws; and the influence of politics.

In order that one may not became entirely discouraged as he studies the police problem of American cities it is necessary to turn to a fairer basis of comparison than that of our systems with those of the cities of Europe,namely; our systems of today and those of a few decades ago. Here is a substantial foundation for encouragement, for there is scarcely a police system in America that does not show marked improvement. The author expresses the hope that while other forms of government and "political faiths" are being challenged, some solution of the police problem in America will be found.

Charts are given showing the organization of the police systems of Chicago, Detroit, Los Angeles, New York, Philadelphia, St. Louis, and Washington, respectively. The book is a companion to one entitled "European Police Systems" written by the same author and published in 1915. Both studies were undertaken at the invitation of the Bureau of Social Hygiene.